As Things Stand

Ten Years of Recommendations

Canadian Advisory Council on the Status of Women
Conseil consultatif canadien de la situation de la femme

85-2594/

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Catalogue No. LW31-14/1983E
ISBN 0-662-12853-2
Available free of charge from
The Canadian Advisory Council on the Status of Women

Cette publication existe aussi en français.

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The Canadian Advisory Council
on the Status of Women

In ensuring the forward progress of any movement, it is essential to pause from time to time and take stock of what has been accomplished and what remains to be done. For the Canadian Advisory Council on the Status of Women, this year of our tenth anniversary marks an appropriate point for such an assessment and ***As Things Stand*** *outlines both the recommendations which the Council has made over the years and the action which has resulted thus far from our work.*

The Council's energetic activity has resulted in a number of recommendations covering the vast spectrum of women's issues from economic to health to legal concerns. While progress may initially have been slow, during my last two years as President I have witnessed key changes in the areas of Constitutional reform, sexual assault legislation, measures to combat wife-battering, and female representation on the judiciary and government bodies. All these are decisive indicators to me that women have achieved an important momentum for instituting reform.

There are still, of course, great challenges before us, particularly in improving the economic situation of women. Yet, I see the federal government's recent efforts regarding affirmative action, equal pay for work of equal value, sexual harassment and sex stereotyping as particularly hopeful signs that governments are now open to concrete action on women's issues. We must, however, continue to prompt government for change and I am thus firmly convinced that women must increasingly involve themselves in the decision-making process at the municipal, provincial and federal levels.

Even if we must continue to fight battles which are long and often painful, I believe that we need only look to nations around us and take heart. While women in many countries have suffered severe set-backs in advancing their cause, women's rights are better guaranteed by law in Canada than they are in most other nations.

For all that has been accomplished by the Council in our ten year history, I extend a most sincere thank you to all past and present Council members, Presidents and Executive Officers as well as to women's groups throughout the country. More than anything, this document is a testimony to your dedication and vision of women's equality in Canadian society.

Lucie Pépin

Acknowledgements

This report was written by Carol Zavitz, with the assistance of Françoise Barbot Provost, Dolores Backman, Diane Morissette and Fran Shaver. The author wishes to thank all those who commented on the manuscript: Robert Raizenne, Harriet Sachs, Berenice Sisler, Marylee Stephenson, Jennifer Stoddart, and Julie White. In addition, her warmest appreciation to the staff of the CACSW, for their efficiency and support; in particular, Lorraine Garneau, Donna Greenslade, Shirley Kerr, Louise Juneau, Véréna Ossent, Nicole Proulx, Catherine Rancy, Micheline Savoie and Pauline Vaillancourt.

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Preface

How to Read *As Things Stand*

This report reviews selected recommendations by the Canadian Advisory Council on the Status of Women during the first ten years of its existence. The CACSW has made many recommendations over the years, on a wide variety of issues which concern women in Canada. These recommendations have been presented under broad subject categories for ease of reference. For most topics covered, a summary of the situation which led to the CACSW's recommendations is followed by an account of the major changes that have been made (or not, as the case may be) since that time. A select listing of Canadian references for further study is included with each topic, and related topics are cross-referenced. For topics not found in the table of contents, an index is provided at the end of the report.

Readers should note that not all of the recommendations made by the CACSW are included in this report. The focus of certain issues changed over the years and the CACSW often responded to conditions at a particular point in time with a series of recommendations. In these cases, the latest recommendations of the series are summarized here. In addition, a great many recommendations were made in response to a particular situation affecting a particular group of women — for example, many recommendations to improve the treatment of flight attendants and nurses were issued in 1973 to 1975 and are not covered in this report.

As Things Stand goes only as far as the June 1983 recommendations, because of the time taken to produce this material. However, Appendix 1 includes the text of the recommendations made at the September 1983 Council meeting. No discussion of them was possible for the writing of this report.

For the full text and exact wording of the CACSW's recommendations, the reader is referred to *Recommendations of the Canadian Advisory Council on the Status of Women by Subject*. This compilation is available from the CACSW, and is updated periodically. A full list of available CACSW publications is included at the end of this report.

Federal Provincial Jurisdictions

The CACSW can address its recommendations only to the federal government. Although it comments on and analyzes women's issues generally, it cannot formulate recommendations on matters within provincial or territorial jurisdiction. This puts initial limits on the scope of its recommendations. Many of the most important issues for women, such as employment or health care standards, are primarily provincial concerns.

The federal government has legislative powers in the following areas: national defense; railways and communications; international and interprovincial trade; international relations; postal services; currency; marriage and divorce; copyrights; banks and banking. The federal government as an employer and as regulator of certain industries also legislates human rights, employment standards and labour relations governing the workplace in these industries and the federal public service; provincial jurisdictions cover all other workers.

There are three areas in which both provincial and federal governments can legislate; in agriculture and immigration, federal legislation prevails, but in pensions the provinces prevail.

Provincial governments have legislative powers in: municipal institutions; highways and local works within provinces; provincial prisons; provincial courts, property and civil rights; solemnization of marriage; primary and secondary education and trade within a province. Provinces also have jurisdiction in the following crucial areas for women, but costs are shared with the federal government: health care, including medicare; post-secondary education and training; social services and welfare. The courts resolve any conflict in jurisdiction.

Federal/provincial cost-sharing arrangements are related to the taxing powers of each jurisdiction. The provinces have, over the years, traded many of their taxing powers to the federal government, which in return administers the collection of taxes and grants funds to provincial governments (Quebec has developed different financing mechanisms). With increased control over finances, the federal government is able to regulate, to a degree, certain programs under provincial jurisdiction: daycare, welfare, social assistance and social welfare through the Canada Assistance Plan (Health and Welfare); medicare (Health and Welfare); post-secondary education (various administrations); and technical and vocational training (Employment and Immigration).

Introduction

The past ten years have seen an unprecedented amount of change in the position of women. To name just a few of them: ten years ago the majority of Canadian wives were full-time housewives. Today the majority of wives are in the paid labour force. Ten years ago there was no governmental structure concerned with the status of women. There is now a complicated network of interlinked units charged with this task. Though the women's movement was just in its infancy ten years ago, by now it has evolved into a multiplicity of national, regional, and local organizations. The Canadian Advisory Council on the Status of Women plays a part in this on-going process of change. In this introduction, we will first look at how the Council came into being, what its functions and structure are, and how it fits into the contexts of the government and of the women's movement. We will then consider the changes that have taken place in the past ten years, and try to assess their importance. Finally, we will consider how closely we have approached (or how far we have yet to go to achieve) the goal of full social equality for women.

The Canadian Advisory Council on the Status of Women — Its Origin, Functions, Structure and Place in Government and the Women's Movement

In many ways, we can date the beginning of the feminist movement in Canada by the establishment of the Royal Commission on the Status of Women on February 16, 1967. The Commission had a rather sweeping mandate, "to inquire into and report upon the status of women in Canada, and to recommend what steps might be taken by the federal government to ensure for women equal opportunities with men in all aspects of Canadian society . . . ." The Commission submitted its report, which represented the most exhaustive study of the position of women in Canada to date, on September 28, 1970, to the Governor General in Council.

It is indicative of the times that of the seven members of the Commission, the three married women, including the Chair*man* of the Commission, were listed by their husbands' names as Mrs. John Bird (Florence Bird), Mrs. Ottomar Lange (Lola M. Lange) and Mrs. Robert Ogilvie (Doris Ogilvie). The other members were either unmarried women (Jeanne Lapointe and Elise Gregory MacGill) or men (Jacques Henripin and John P. Humphrey), and thus listed under their own names. The Royal Commission made 167 recommendations, of which the 166th recommended that a federal Status of Women Council be set up which would be directly responsible to Parliament and monitor annually the status of women, undertake research relevant to the status of women, establish programmes to correct attitudes and prejudices adversely affecting women, and propose legislation and policies in consultation with other government organizations and voluntary groups.

On May 31, 1973, the Canadian Advisory Council on the Status of Women was created. Its functions are: "a) to bring before government and the public matters of interest and concern to women; and b) to advise the Minister (Responsible for the Status of Women) on such matters relating to the status of women as the Minister may refer to the Council or as the Council may deem appropriate. To fulfill these functions, the Council may publish its findings and recommendations."

The Advisory Council, therefore, is charged with the mandate as suggested by the Royal Commission with two exceptions: it reports to Parliament, through the Minister Responsible for the Status of Women (at present Judy Erola), and it does not have the power to establish programmes — although there are other mechanisms within the federal bureaucracy which do have this power.

The Council itself consists of three full-time officers (the President, and two Vice-Presidents) and 27 members who represent all provinces and territories and who meet periodically. The Council has a paid staff at present of the equivalent of 28 person-years, up from 14 staff in 1976. The Council engages in a rather large spectrum of activities, including informing the Minister Responsible for the Status of Women and other Ministers about issues of particular importance for women, maintaining a research branch and publishing the subsequent reports (which has grown into a rather extensive publication series), sponsoring and co-sponsoring conferences, presenting briefs (upon invitation as well as sometimes unsolicited), providing information to the public as well as to other government departments, and maintaining liaison with women's groups. In addition, individual Council and staff members engage in a variety of public speaking engagements.

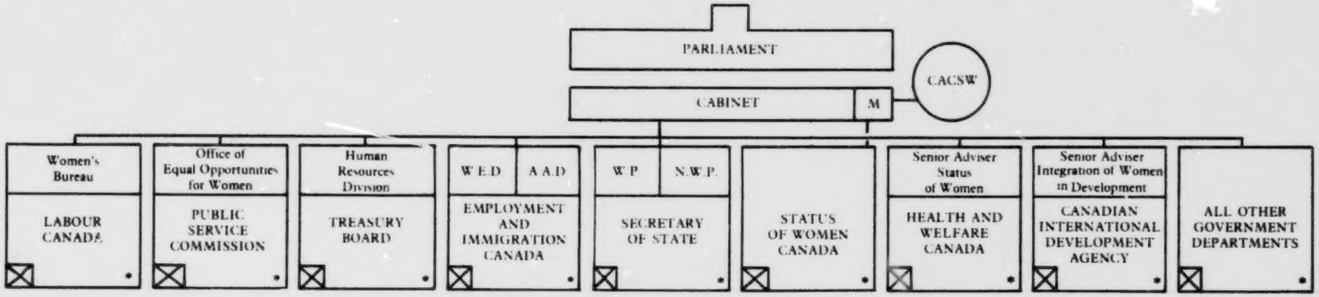
In order to understand the functioning of the Council, it must be seen in two different contexts: as part of the overall governmental structure, and as part of the women's movement. We will look at both contexts in turn.

The Council in the Context of the Governmental Structure

Within the government, there are a variety of different organizations charged specifically with issues concerning the status of women. The Council must be seen as one of these organizations, different from all, but complementary to them. To start at the lowest level, each government department is supposed to have an "integration mechanism" (a person or a committee) which is to ensure that women's concerns are integrated into the work of that department. In addition, within the personnel office of each department, there is one Equal Employment Opportunities Coordinator. As of June, 1983, the government has announced that each department will also have an affirmative action programme for its own employees.

Beyond that, there are seven special organizational units concerned with some aspect of the status of women. Five of them are located within particular departments, one — Status of Women Canada — is a distinct department, and the Advisory Council has its own particular niche as an advisory body parallel to those directly within the federal government. Of the five organizations which are part of larger departments, two of them are specific to the Public Service, while the others are concerned with the development and application of programmes for the general public. The two units which are specifically for public servants are the Office of Equal Opportunities for Women, which is part of the Public Service Commission and which promotes equal access for women to employment and career opportunities within the Public Service. The other is the Developmental Personnel Policies and Activities Division of the Treasury Board Secretariat, which includes affirmative action programmes. The other three units which are located within larger departments are the Women's Bureau which is part of Labour Canada and which recommends and implements policies and programmes concerned with equality for women in the labour force. The Canada Employment and Immigration Commission (CEIC) has two directorates dealing with women's issues: the Affirmative Action Division which helps the private sector undertake voluntary affirmative action programmes for women, natives and handicapped, and the Women's Employment Division, whose task it is to ensure that all programmes and services of CEIC meet the

Government Services for Women


PARLIAMENT
CACSW
CABINET
M
Women's Bureau
LABOUR CANADA
Office of Equal Opportunities for Women
PUBLIC SERVICE COMMISSION
Human Resources Division
TREASURY BOARD
W.E.D.
A.A.D.
EMPLOYMENT AND IMMIGRATION CANADA
W.P.
N.W.P.
SECRETARY OF STATE
STATUS OF WOMEN CANADA
Senior Adviser Status of Women
HEALTH AND WELFARE CANADA
Senior Adviser Integration of Women in Development
CANADIAN INTERNATIONAL DEVELOPMENT AGENCY
ALL OTHER GOVERNMENT DEPARTMENTS

☒ "Integration mechanisms" in each department
* One Equal Employment Opportunities Coordinator and one Affirmative Action Officer in the Personnel Division of each department
M Minister Responsible for the Status of Women

W.E.D. Women's Employment Division
A.A.D. Affirmative Action Division
W.P. Women's Programme
N.P.W. Native Women's Programme

employment-related needs of women. Secretary of State, likewise, has two divisions concerned with women's issues: the Women's Programme and the Native Women's Programme, both of which provide grants and resource assistance to women's groups and native women's groups, respectively, across the country.

Besides these sub-units of departments, there are two other units: Status of Women Canada is the ministerial office of the Minister Responsible for the Status of Women. Its primary task is to ensure that federal legislation, policies and programmes give proper consideration to the concerns of women. Finally, there is the Advisory Council, which is part of the governmental structure but to some degree outside of it as well: the Council's mandate is partially to advise the government, and partially to inform the public. This has the very important consequence that the Council may raise an issue publicly at the same time as it raises the issue with the government. The Council only advises, rather than implements, and this describes its limitations as well as its freedoms: being only advisory, it cannot itself implement any policy changes, but being advisory, it can, and should, raise issues in all areas of concern to the federal government or to the public, and can — and should — develop controversial proposals.

The Council is thus at the interface between the public and the government, just as it is at the interface of the women's movement and the government.

The Council in the Context of the Women's Movement

The Council is one of the organizations dedicated to improving the status of women in Canada. As such, its goals are in harmony with those of the women's movement, although on specific issues there will certainly be specific disagreements between various organizations, as is indeed common and proper. The Council maintains links with the major women's groups, and for that purpose organizes periodic meetings to which representatives from the major women's groups are invited. These include the National Action Committee on the Status of Women, an umbrella group of Canadian women's groups with a joint membership of approximately three million women, and a major lobby group in the country. Other groups include the Canadian Research Institute for the Advancement of Women, the National Association of Women and the Law, l'Association feminine d'éducation et d'action sociale, the Canadian Congress of Learning Opportunities for Women, the Inuit Women's Association and many other groups. In fact, for its most recent meeting, the Council invited over fifty women's groups.

Insofar as the individual members and staff of the Council are feminists, the Council is a feminist organization. This has some interesting implications. Government employees typically do not keep the same position during their career but change from one department to another. People having worked in organizations such as the Advisory Council, Status of Women Canada, and others mentioned in the previous section are therefore likely to eventually shift into other government departments. (Council staff are not actually in the Public Service, but they are given the same categories, pay and benefits and can move into the Public Service if there are appropriate openings). The organizations specifically concerned with the status of women thus serve to make employees working within them aware of feminist concerns. Presumably, people will take this awareness with them as they move into other governmental positions.

Through its research and publication programme, the Council is linked into the whole area of women's studies, both as a recipient as well as a donor: it contracts some of its research projects out to researchers outside of government, thus drawing on the feminist research community, and in turn, its publications form an integral aspect of the Canadian feminist literature.

The Council, then, symbolizes in itself the linkage between governmental efforts to improve the situation of women and the women's movement. Being at the interface of both structures, the Council, at its best, can spell out the implications of specific governmental policies for the general public and for the women's movement, and on the other hand, it can translate the concerns of the women's movement into specific policy proposals. That is not a particularly easy task, but a crucial one.

Having briefly discussed the structure and functions of the Council, we can now turn to the question of what changes have taken place in Canada with respect to the position of women. We shall tie this discussion to the major recommendations which have been formulated by the Council during this decade.

A Decade of Changes: 1973-1983

In 1973, the Supreme Court of Canada passed two rulings which have become famous — or rather infamous — for identifying the status of women at the time. They subsequently served as rallying points for people committed to and working for the equality of women. The first of these cases, Murdoch v. Murdoch, involved a farm wife who had worked, for over twenty years, as a farmer, in co-operation with her husband, on their Alberta family farm. The couple separated in 1968, and Irene Murdoch claimed an undivided half-interest in the property. In October 1973 the Supreme Court of Canada ruled that "her various services in connection with the husband's ranching activities did not give her any beneficial interest in the property claimed."

It was partially the public indignation about the blatant use of a double standard in evaluating the relative contributions of her and of her husband which gave impetus to the reform of the various provincial family laws which have since taken place, starting with the enactment of the Ontario Family Law Reform Act in 1978. Today, ten years later, Irene Murdoch would almost certainly have been awarded some considerable interest in the farm, in all provinces.

The other important cases involved an Indian woman, Jeannette Corbière-Lavell, who had lost her Indian status due to marriage to a non-Indian. She appealed the loss of status under the Canadian Bill of Rights, charging sex discrimination, since Indian men do *not* lose their status upon marriage to a non-Indian. In August 1973, her request was denied on the grounds that the Bill of Rights did not make existing discriminatory legislation inoperative.

Now, ten years later, Indian women still find themselves in the same position. On the other hand, we now do have a Charter of Rights and Freedoms with a section which stipulates equality for every individual, irrespective of sex, "before and under the law", which will come into force by 1985. This means, that at the latest by 1985, the status of Indian women and men will have to have been equalized.

Looking at the aftermath of these two crucial decisions it can be seen how much, as well as how little, has been achieved with respect to gaining equality for women. With respect to some issues, the changes of the past ten years concerning the status of women have been dramatic and unparalleled. With respect to others, the changes have been agonizingly slow and most insignificant. For a few issues we must actually note a deterioration of the situation.

The Council has as one of its functions the monitoring of changes affecting the position of women. Its major recommendations and what happened to them are described in the body of this book. Here, we will try to give a summary overview and assessment of the *direction* and *importance* of these changes: in terms of direction, have the changes been positive (+), negative (–), or neutral (0)? In terms of importance, have the changes been minor (+ or –), important (++or ––), or major (+++or–––)? To what degree have they brought us closer to (or removed us further from) the goal of complete social equality between the sexes?

We will thus engage in two comparisons. The first one will be past-oriented and will look at the changes that have been taking place in the past ten years, providing us at the end with a simple balance sheet of positive, neutral and negative changes. It must of course be noted that such assessments necessarily involve some judgements with which readers may or may not agree. The best one can do is to provide a short rationale for each assessment. This assessment of changes will follow roughly the structure of the book, so that the content of recommendations and the discussion of the issues involved can be easily located by referring to the relevant passages in the book.

The second comparison will look to the future and will compare the current situation against the goal of social equality for women. It will also follow, for reasons of comparability, the outline of the book, although not exactly, and will take a somewhat broader approach to the issues under discussion.

Changes in the Status of Women in the Past Decade

First, we must note one restriction: the issues that will be considered here are only those to which the Council has, at some time or other, addressed itself. Since the Council can recommend only on matters that fall under federal jurisdiction, some changes that have taken place (e.g., in the public education system) will not be considered. Second, to come up with an assessment of the direction and importance of any one change is not necessarily an easy or straightforward matter, since over time the social context changes. Consider, for example, the issue of family allowances. If we were to ignore the social context, we would simply note whether the family allowances have been raised, lowered, or remained the same within the last ten years and accordingly classify the change as positive, negative, or neutral. However, as we all know, there has been an extraordinarily high rate of inflation in this time period. Therefore, an absolute increase might actually translate into a relative decrease in payments, due to the loss of value of the dollar, and ignoring this would seriously distort the picture. Alternatively, with respect to some issues there may have been both a negative and a positive change, so that the net effect is judged to be neutral. Therefore, very brief rationales will be provided for each assessment made. (For the substance of the issues, check the relevant passages in the book).

Women in the Labour Force

The Council has, at one time or other, made a series of recommendations concerning the position of women in the labour force. As far as employment and training policies are concerned, we find some movement on the part of the government to encourage the training and employment of women in non-traditional occupations, but we must also note that the effect of these programmes has been very limited. The little change that has occurred, then, has been in a positive direction. **(+)**

Concerning part-time work, we now know more about the situation of part-time workers (who are predominantly female) than before, but no substantive changes in their position can be noted. **(0)**

The situation of immigrant women, particularly those engaged in domestic labour and the garment industry, remains precarious, and their working conditions remain substandard. However, there has been some improvement concerning their ability to gain landed immigrant status and some organized activity on their behalf is in progress. We can therefore note a modest improvement of their situation. **(+)**

Concerning the issues of occupational health and safety, a few, quite modest, initiatives have been started which will hopefully eventually contribute towards the development of safer working environments. However, during this time period there has been a large increase in the number of video display terminals in use, with a range of attendant strains and risks which are yet insufficiently regulated. Therefore, we cannot state that the situation has improved. **(0)**

With respect to union membership, more women are now unionized than before — but these gains must be seen in the context of an overall erosion of union rights and powers due to restraint legislation and the effect of the overall economic situation. No important gains for women can be noted. **(0)**

By contrast, the federal government as an employer has taken some important steps to equalize the position of its male and female employees. In particular, a number of affirmative action programmes have been set up, and the Human Rights Commission has awarded some substantial pay increases to some female employees on the basis of equal pay for work of equal value legislation. (++) By contrast, women remain severely under-represented on boards, commissions, councils, committees and crown corporations, although there has been a slight increase in the proportion of female appointees. (+)

Employment Benefits and Social Welfare

As far as issues in the general area of employment benefits and social welfare are concerned, we find quite a contradictory pattern. With respect to Unemployment Insurance, there have been some slight changes which have somewhat improved the access of women to Unemployment Insurance benefits — however, in the same time period, overall benefits were lowered from 66.6% to 60% of earnings up to a maximum ceiling. On balance, therefore, one must conclude that the situation has neither improved nor deteriorated. (0) Concerning parental benefits, by contrast, we can note some modest improvements. (+)

Evaluating the situation with respect to child care is rather difficult. On the one hand, the number of day care spaces available has increased, on the other hand, this increase has barely kept pace with the increase in the number of mothers of pre-school children in the labour force. In addition, the Canadian day care system has been extremely inadequate all along — the available supervised day care spaces cover less than ten percent of the actual need. In absolute terms, many more children than ever before — in fact the majority of Canadian children — are now being looked after by somebody other than a parent for major portions of the time. The effect of this trend is hard to evaluate, since, in spite of the image of the happy home for children, we know little about the effect on the child of being raised by a housewife-mother. What is certain is that by far the largest population of children who experience some form of day care receive this care in unsupervised, unlicensed settings. Certainly, then, we can note no improvement in the situation, but there is insufficient information to argue that the situation has actually deteriorated. **(0)**

Family allowances have been reduced **(–)**, both in absolute and in relative terms, but the money saved has been channelled into the refundable child tax credit. Other tax measures have slightly improved the situation of women, specifically the doubling of the child care deduction and the fact that spouses working together in an unincorporated business can now pay each other a salary and claim this as a business expense. We note, therefore, a slight amelioration of the situation with respect to taxation. **(+)**

The public pension plan has been somewhat improved by allowing splitting of pension credits upon divorce between ex-spouses and by the incorporation of a child care drop-out provision. **(+)** Nevertheless, the majority of elderly women continue to live in poverty.

Families

As we move into the area of families, we note that there have been few areas in which more change has occurred than within families in the past ten years. All provinces have reformed their family laws, generally in the direction of equalizing the responsibilities and rights of spouses. This includes the notion that the contributions a spouse can make through her unpaid labour are in some form recognized. While the legislation is not ideal, it does represent a genuine and important advance over the previous legislation. As noted, Irene Murdoch, today, would receive a better settlement than she received in 1973. **(++)**

As we turn towards the issues of divorce, support, and custody, we note that there has been a tremendous increase in the rate of divorce. (Between 1970 and 1980 the divorce rate almost doubled.) However, custody continues to be assigned to mothers and fathers at approximately constant rates (about 80% to mothers, 15% to fathers, and the rest to neither) and support payments continue to be defaulted upon in the majority of cases. We can therefore note no improvement in these areas. **(0)**

The establishment of experimental Unified Family Courts must be seen as a step forward, but since to date only a small portion of the population has access to such courts, so far, the impact has been slight. **(+)**

Concerning battered women, there is no way to judge whether wife beating has increased, decreased, or remained stable during the past ten years, since there are no reliable records for either the past or the present which would allow us to draw these types of conclusions. We can, therefore, only observe to what degree there has been a change in the manner in which this important problem is addressed in the public realm. Within the last ten years, we have moved from almost totally ignoring this important problem to wide public recognition of it. We also note, very recently, some concerted attempts to deal with this phenomenon and its consequences, although it is too early to judge how successful these efforts will be. We therefore observe a marked improvement in the public *awareness* concerning wife battering. But it is really impossible to evaluate whether public discussion and social programs have lead to a significant decrease in this type of violence against women. **(+)**

Legal Status and Legal Issues

Nowhere have there been more significant changes than in the area of legal status and legal issues. One of the most important changes to occur was the inclusion of sex equality in the Charter of Rights and Freedoms, in spite of the fact that this section will take force only in 1985 and that it can be overruled by an Act of Parliament for five-year periods. What precise effect the Charter will have will be seen only after we have had a series of judicial rulings. Nevertheless, it has decisively altered the ground rules of the game and must be seen as a truly major step forward. **(+++)**

By contrast, the legal situation of native women has as yet not been equalized to that of native men, although this will have to take place by 1985 at the latest. For the time being, we must note that no progress, as yet, has been made. **(0)**

With respect to sexual offences, the legislation has been significantly improved, although its effectiveness remains as yet to be seen. **(++)** Prostitution has been an area of concern for some time, but no changes that could, on balance, be termed either improvements or deteriorations can be noted for the time period under consideration. **(0)** Finally, with respect to citizenship and passports, some important legal changes equalizing the position of women and men have been made. **(++)**

Health

The rather positive picture emerging from the legal efforts that have taken place in the last decade is, unfortunately, reversed when we consider the area of health. With respect to birth planning, we must note a deterioration of the overall situation, due to the dismantling of the family planning division within Health and Welfare. **(–)** The same observation applies with respect to access to abortions, due to the decrease in the number of hospitals which have abortion committees. This decrease further restricts the access of women to legal abortions. **(–)** Finally, with respect to the position of handicapped women, not enough information is available to judge whether their position has improved, or deteriorated. **(0)** However, since the Charter of Rights and Freedoms also prohibits discrimination on the basis of mental or physical disability (to come into force in 1985), hopefully we will be able to note some improvement in the situation of handicapped women and men in the near future.

Volunteer Work

Finally, with respect to volunteer work, no significant changes can be noted. **(0)**

Sports

In the area of sports, sex inequality continues to prevail, although our female athletes do proportionately better than our male athletes in international competitions. Insufficient information exists to evaluate whether the overall situation of women in sports has improved or deteriorated, but two positive aspects must be noted: the establishment of a Woman's Programme in Fitness and Amateur Sport (a government office) and the establishment of the Canadian Association for the Advancement of Women and Sport (a voluntary organization). We will count these two factors as a slight improvement of the situation. **(+)**

Overall Balance

If we add up the various assessments of the changes that have occurred, we find that overall, changes have gone in a positive direction. There are only three exceptions: the first concerns the family allowance, which has been reduced. However, this reduction must be seen in the context of the creation of the refundable child tax credit, and does therefore not constitute a true change for the worse. This leaves two other changes in a negative direction, and unfortunately, here we are dealing with a true deterioration of the situation: both birth planning and abortions have become even less accessible than before. It is ironic that both these changes should occur in the same time period — one would expect that anybody who wishes to reduce the need for abortions would want to vigorously support birth planning efforts. The women who can least afford them, namely the very young, with little education, in outlying regions, are most negatively affected by this development.

Turning to the positive changes that have taken place, it is evident that the greatest gains have been made in the legal area. Indeed, two of the changes that are listed as falling under families also represent legal changes: namely the enactment of the new provincial family laws which define matrimonial property in a somewhat more equitable manner, and the establishment of experimental Unified Family Courts.

On the basis of these observations, it would be quite proper to identify the past decade as a decade of legal changes for women. However, to what degree these legal changes will be translated into increased social equality for women remains to be seen.

The rather positive picture that emerges from the balance sheet reflects the many individual and collective, governmental and non-governmental efforts that have been expended on improving the situation of women, and in that respect it presents an accurate picture — but in another sense, the balance sheet is quite misleading. Positive and negative changes are rated according to a base which varies widely according to different issues. This implies that if some matter is particularly negative, even a slight improvement will show up

Balance Sheet of Changes Affecting Women in 1973-1983

A. Women in the Labour Force	
Employment and Training Policies	+
Part-time Work	0
Immigrant Women	+
Occupational Health and Safety	0
Unions	0
The Federal Government as an Employer:	
Public Service	++
Appointments	+
B. Employment Benefits and Social Welfare	
The Unemployment Insurance Program:	
Unemployment Insurance	0
Parental Benefits	+
Child Care	0
The Family Allowance	–
Taxation	+
Pensions	+
C. Families	
Marriage, Divorce and Children	
Matrimonial Property	++
Divorce, Support and Custody	0
Family Court	+
Battered Women	+
D. Legal Status and Legal Issues	
The Constitution	+++
Native Women	0
Sexual Offences	++
Prostitution	0
Citizenship and Passports	++
E. Health	
Birth Planning	–
Abortion	–
F. Women with Handicaps	**0**
G. Volunteer Work	**0**
H. Sports	+

as a positive factor on the balance sheet, ignoring the fact that the overall situation continues to be intolerable. Wife beating is a case in point. Clearly, widespread wife beating constitutes a totally unacceptable state of affairs, yet, the sheer fact that the problem is now occasionally acknowledged shows up as a positive factor. In order to gain a more realistic image as to where we stand with respect to those issues discussed above, we will now engage in a second comparison, assessing the situation as a whole *against the goal of sex equality*, and noting to what degree this has been realized or failed to be realized.

Assessment of the Current Situation of Women Compared to the Goal of Sex Equality

In order to maintain some comparability, we will follow in this discussion the same topics as before, but the issues will be somewhat differently defined and one further area will be added: women in politics. We will start out in each case with a definition as to what sex equality would mean in that area, and then compare the current situation against that definition.

Women in the Labour Force

In general terms, women would have achieved equality in the labour force if they were represented proportionately in all occupations, if there were no female-male wage gap, if they received the same fringe benefits as male workers, and if, in general, comparable efforts on the part of female and male workers would result in comparable results. At present, we are very far removed indeed from this situation. The labour market continues to be segregated by sex, i.e., women and men tend to have different jobs, and those held by the women tend to be lower paid, and to offer fewer benefits, than those jobs primarily held by men. The wage gap has not diminished in the past ten years, and women with comparable education and type of work continue to receive less pay than their male counterparts. To the degree that more women are in the paid labour force, we have, in fact, moved towards more sex equality, but the position of women on the labour market has not substantially improved, only their numbers have increased.

Employment Benefits and Social Welfare

Today, the majority of all Canadian wives and of all Canadian mothers are in the paid labour force. Ten years ago, only a minority of either group was in the paid labour force. In the face of such dramatic changes, our entire social security system, including employment benefits and social welfare measures, needs to be reconsidered. Women will never achieve full social equality unless three preconditions are fulfilled: first, men need to increase their participation in familial tasks and such sharing must be facilitated through a social recognition that indeed, familial tasks are tasks for women *and men.* Second, socially useful work that is carried out within families, namely care of people who are unable to care for themselves (either because they are too young or too old, sick, or temporarily or permanently handicapped) must be socially recognized and assisted. Third, care for those who cannot care for themselves must be re-defined as a task that is shared by women, men and *society.* The most pressing issue at the present time is child care, which would consequently have to be re-defined as a task for mothers, fathers, and society at large. The recently adopted drop-out provision in the public pension plan moves in this direction, but falls short of addressing the question in its totality.

In an international comparison with countries which are comparable to Canada in terms of their degree of industrialization and overall wealth, Canada fares very poorly indeed with respect to child care services supplied and parental benefits given. To give just a few examples: in France, for instance, more than 90% of all children aged three to five attend public "écoles maternelles," free of charge! In Sweden, new parents are entitled to a nine-month paid parental leave between the two of them. In Hungary, a new mother is entitled to 20 to 25 weeks of maternity leave with full pay, reduced working hours during the breast-feeding period, up to sixty days of paid leave to care for ill children under the age of three (with a lower number of days for older children). She may choose, after the expiration of her fully paid maternity leave, to stay at home with any child under the age of three for up to three years at approximately half the average wage. She is also guaranteed her old job back and the years spent at home count for her pension.

By comparison, Canada obviously shows up very poorly. Our maternity provisions continue to penalize women economically for giving birth, most fathers have no right to participate in child care as an employment benefit, our public day care system is totally inadequate, and our monetary transfers to families with children are so inadequate that more than a quarter of Canadian children are growing up in poverty! In addition, the number of women on family benefits continues to grow while the benefits continue to become more inadequate, due to the combination of rising inflation and largely static welfare payments.

If we seriously wish to strive for equality for women, a complete overhaul of our employment benefits and social welfare system will be necessary, and greatly increased public support will have to be given to parents (both mothers and fathers) in the form of services, entitlements to paid leaves, as well as direct monetary transfers.

Families

Full social equality for women in families would mean that legally, the positions of women and men in the family were equalized, that all rights and responsibilities were equally shared between husbands and wives, and that the consequences of particular acts or events — e.g., the birth of a child, a separation, a divorce — were comparable for both sexes, and finally, that any crimes committed by one family member against another were prosecuted and punished in the same manner in which comparable crimes against strangers would be prosecuted.

Of these goals, we have almost reached the first one. By-and-large, the position of husbands and wives has been equalized before the law, although some exceptions to this general rule remain. However, on all other points we are far indeed from the goal of sex equality. The consequences of a separation or divorce or the birth of a child continue to be very different for women and men. In general, women tend to become poor after a separation or divorce, while men tend to retain their previous economic status; women tend to obtain custody of children, men tend to get access to the children but no custody. Men tend to be obligated to pay support upon which they subsequently tend to default. The birth of a child completely alters the workload and lifestyle of the mother and it affects the father in a much more limited manner. Although wife battering has finally been hesitantly recognized as a public problem, prosecution rates have so far remained very low, as is the case with marital rape. Incest, which is almost entirely a crime perpetrated by adult males on young females, has not even yet been defined as a major public problem. We are, therefore, far removed from any real equality within families.

Legal Status and Legal Issues

Equality for women and men before the law would imply that there was complete equality, with no exceptions, in terms of the law for males and females, that there was an equal application and enforcement of such laws, and lastly, that all existing laws were neither discriminatory nor have a differential effect on women and men due to their different positions. We are moving towards a situation in which we approximate the first of these conditions, although native women are as yet being discriminated against. The treatment of prostitution by the law and the police provides a good example in illustrating that laws need to be non-discriminatory in their formulation as well as equally enforced, (i.e., both prostitutes and customers can be charged, but customers rarely are). Overall, however, equality for women under the law has been more closely approached than in any of the other areas.

Health, Sports and Volunteer Work

With respect to health, equality for women would mean equal access to all necessary treatments including means for birth planning and legal abortions. The medicare system does ensure equal access to *most* necessary treatments, but the current increase in extra billing is of great concern because women as a group are poorer than men and would be disproportionately affected if the medicare system were to be further degraded. At the present time, many women, especially young and uneducated ones, have effectively no access to birth planning information or methods, and many women have in effect no access to a legal abortion, if their hospital does not have an abortion committee.

In sports, we would have reached sex equality if male and female sports were supported to the same degree, at all levels, and if the same amount of public money and attention were spent on female athletes as on male athletes. At present, this is not the case.

With respect to volunteer work, sex equality would imply that female and male voluntary workers were supported and rewarded for comparable work to comparable degrees, and that among voluntary organizations women had as much access to decision-making positions as men. In the absence of the relevant information, we cannot state to what degree this describes (or fails to describe) the current reality.

Politics

Given that much of the *legal* groundwork has been done to equalize the position of women and men, if we are to actually achieve sex equality a lot of *political* work needs to be done in all areas — including the administration and implementation of law! Without a significant proportion of women as Members of Parliament and in positions of decision-making power (including, most urgently, judges), we are dependent on men to work for sex equality — and since equality may sometimes require that men give up positions of privilege, this is not a very satisfactory situation.

Unfortunately, there are still few women in Parliament, in important positions in government, and in high administrative posts. For example, in 1982 only 5.4 percent of senior executive officers in the Public Service were women. At present, only 16 of our federal MPs are women, amounting to 5.6 percent of all MPs. This is the highest percentage *ever*, and therefore represents a marked improvement over the past.

Once women are in Parliament, their chances of becoming a cabinet minister are better than those of male MPs. However, because of the very low absolute number of women MPs throughout Canadian history, there have been few female cabinet ministers. Since the establishment of the

Canadian parliament, there has been one woman, Renaude Lapointe, as Speaker of the Senate, and eight female cabinet ministers: Ellen Fairclough, Judy LaMarsh, Jeanne Sauvé, Monique Bégin, Iona Campagnolo, Flora MacDonald, Judy Erola and Céline Hervieux-Payette. However, the trend seems to be improving. In 1983, three of the ten women MPs from the party forming the government had cabinet posts. From February 1980 on, the speaker of the House of Commons has been a woman, Jeanne Sauvé.

Women as a group are still largely excluded from decision making. This suggests that women must use a multi-tiered strategy in the future. They must become increasingly aware of their own political power through the ballot box and use it effectively. They must see that more women are elected to Parliament (as well as to provincial legislatures). Finally, they must organize to lobby *all* Members of Parliament and of the government to work for changes which will improve the position of women.

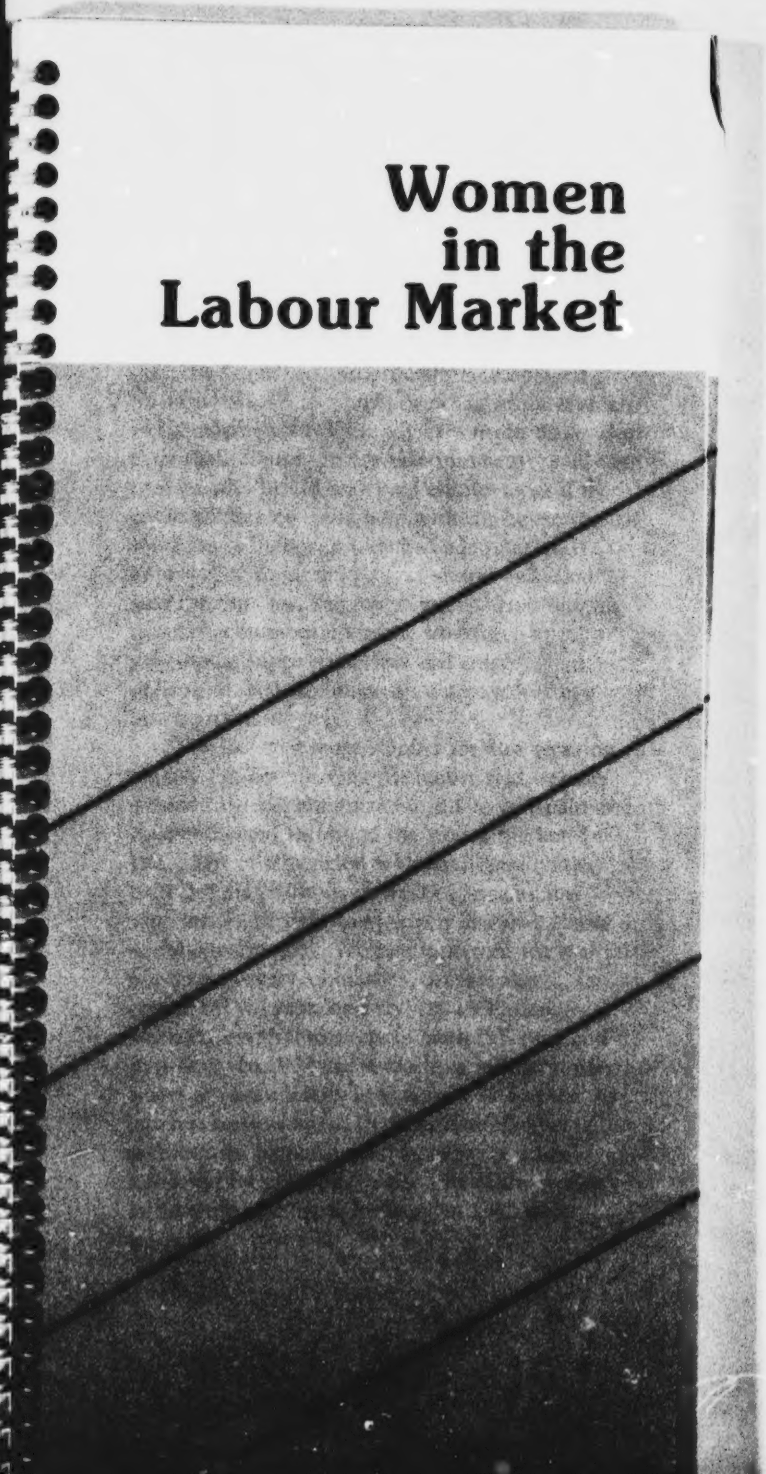
The Current Situation — An Assessment

At the present time, we can describe the situation of women in Canada as being in a take-off position. Some of the groundwork has been done, some of the necessary legal framework exists, more women are preparing to enter the professions, there is a governmental structure concerned with improving the position of women, and there are many feminist organizations which, although they have different aims and objectives, are all committed to the ideal of social justice for women.

On the other hand, the current economic crisis threatens to push us backwards, due to continuing high unemployment and a tendency to try to curtail fiscal spending by restraining social programmes of which women are often the prime beneficiaries.

Against this background we must remember that most of women's gains have been made in times of crisis. Whether we want to call it a depression, or a recession, undoubtedly the Canadian economy — and with it, the society — is in a situation of crisis. That means that new ways of dealing with this situation must be tried. This could become an opportunity for women to work as equal partners in inventing new ways of dealing with current and future problems. Since women have less of a vested interest in the current economic and political structures, in that they have been traditionally and still are disadvantaged by these structures, it can reasonably be assumed that women will have more to offer as alternative solutions than those who have been the main beneficiaries of the old system. Whether we will actually be able to rise to this challenge as a society remains to be seen.

Margrit Eichler



Women in the Labour Market

Working Outside the Home

In this century, women's paid employment has increased steadily and dramatically. In the ten years between 1973 and 1982, the percentage of women participating in the Canadian labour force (i.e., the employed and officially unemployed), rose from 41.9% to 51.6%; over half of the women in Canada now work for pay or want to do so. But even these figures do not take into account all the women who would seek paid employment if they could get day care and help with the housework, if wages were higher, if they had adequate and appropriate training . . . if, in short, Canadian governments and employers were acknowledging women's contribution to the workforce by developing support services and employment policies to facilitate women's employment to a much greater degree.

The fact that more women are now working for pay has not changed the reality that women workers are still ghettoized in the lowest-paid and least-protected sectors of the labour market. In 1982, 57% of all women with paid employment held clerical positions or worked in sales and services. Fewer than six percent had managerial or administrative jobs. Women represent the majority of office workers, domestics, dress makers, restaurant workers, hair stylists, child care workers, hospital workers — both full-time and part-time. In 1982 in the clothing industry, where wages are particularly low, almost 77% of the workers were women. In other manufacturing sectors with higher wages, women are a small minority; for example, under 15% of the workers in the pulp and paper industry in 1982 were women.

Changes in the Labour Market

The labour market is currently undergoing a transformation which many have likened in its scope and probable effects to the Industrial Revolution. The introduction of new technologies has already caused a loss of jobs in clerical and service occupations, and one study has estimated that by the year 1990, there will be jobs for only half to two-thirds of the women seeking this sort of work. At the same time, the demand for highly skilled workers in specialized trades is growing, and the new technology industry is creating jobs as it is destroying many others. Women, however, are still barely represented in the trades or technological fields, either in the current labour force, or in training and education programs. Consequently, women will benefit little from employment opportunities generated in these areas.

For women, obtaining employment in high technology fields is not solely a matter of reconsidering a career choice. The obstacles to overcome are legion: lack of training and education, particularly in math, sciences, and technical areas; insufficient awareness of labour market trends; and pervasive sex-role stereotyping in education and the media. Systemic discrimination affects every aspect of the employment process, preventing the equal hiring, training and advancement of women through traditional employment practices which are entirely within legal bounds and with no necessary *intent* to discriminate. Affirmative action programs designed to remove this form of discrimination are rare.

Employment and Training Policies

In addressing the issue of women's employment opportunities, the CACSW has directed its recommendations to the Minister of Employment and Immigration, who, through the Canada Employment and Immigration Commission (CEIC), is responsible for meeting labour market demands by developing training, retraining and job creation programs.

The Commission offers a wide range of counselling services through its Employment Centres (CECs), as well as a variety of institutional and industrial training programs in co-operation with the provinces and individual employers (training programs are listed in Appendix 2).

In 1982-83, women made up 39.8% of over four and half million registrants at the CECs. The Commission initiated a pilot program in 1981-82, creating seven Women's Employment Counselling Centres that served over a thousand women. These centres are targeted to assist women who have never been employed outside the home, who are re-entering the labour market after some absence or who are seeking a change of career. Women's Employment Counsellor/Coordinators also work within regular CECs.

In June 1980, in order to ensure that the CEIC's Employment Development Program for the 1980s would meet women's employment needs, the CACSW recommended that:

- **minimum participation rates for women be established before the initiation of any employment program;**

Certain employment programs encourage the enrolment of a certain proportion of women trainees. The proportion of places reserved for women by the federal government in institutional training courses which are non-traditional to females was raised in June 1983, from 20% to 30%. Figures indicate overall, that 45,000 or 25% of the full-time participants in all institutional training programs in 1982-83 were women.

In the industrial training program, 23% of the participants were women. The Women in Non-Traditional Occupations (WINTO) Program offers employers 75% of wages paid to female employees receiving training in non-traditional occupations. WINTO trainees made up 18% of all women industrial trainees in 1982-83, and only four percent of *all* industrial trainees.

- **a procedure to monitor and evaluate female participation in and successful completion of programs be established, and that the procedure include substantial input from women's groups;**

Descriptive data are gathered by the CEIC on the participation of women in institutional training, industrial training, and a number of other programs. The Program Evaluation Branch of CEIC does follow up some trainees and publishes a Program Evaluation Bulletin. A 1981 evaluation of the industrial training program showed that women's employability and their wages after training were both lower than those of male trainees. There is no formal procedure for consultation with women's groups.

- **the training allowance system be amended to meet the financial needs of women more realistically, especially those with dependents;**

Training allowances are identical for women and men; dependent and child care allowances were increased in August 1983. Thus, for example, a sole support parent with one child received $100 per week plus $15 for each additional dependent. The weekly child care allowance provided $50 for one child, $80 for two, $100 for three, $120 for four and $10 more for each additional child. An individual living with a spouse or parent whose weekly taxable income was more than $70 received a weekly training allowance of only $25; those who lived on their own without dependents receive only $70 a week. These last rates have been increased.

- **there be a specific and systematic policy designed for women re-entering the labour force, and women with dependents with particular employment problems;**

Some CEIC programs are designed to help individuals who experience difficulty when they re-enter the labour force. These Local Employment Assistance Programs (LEAP) are directed at men and women who have suffered from long-term unemployment. The goal of LEAP programs is continuing employment for the target groups. In 1982, it was considered a federal priority to increase women's participation to 40% or 555 projects; in November 1982, participation was estimated at 48%.

Orientation programs are designed and offered at the local level by CEIC for those who are ready to re-enter the job market but who must reconsider their options, reassess their interests and qualifications, and evaluate the experience they have acquired through working in the home, their leisure time activities and volunteer work. An institutional training program, the Occupational Orientation Program in which women are some 83% of the participants, provides practical experience in a variety of trades to assist a person in choosing an occupation. Another training course is the Job Readiness Training offered to chronically unemployed workers or persons who have been out of the labour force for a prolonged period. Such a course offers lifeskills training, job orientation and academic upgrading. In 1981-82, 54.2% of the trainees in the course were women.

- **extra assistance be given to women proprietors, under the Local Economic Development Assistance Program (LEDA), which assists in establishing small businesses.**

The LEDA programs are target-group oriented and thus make no provision ensuring that women are offered special assistance in establishing small businesses.

The CACSW recognizes the effort made by the federal government through its training programs, notably its strategies to encourage women to enter non-traditional sectors. However, given the limited progress in areas covered by the CACSW recommendations, it is clear that women's employment needs are not being adequately met through these programs. Prospects for employment of women (who will make up 65% of entrants in the labour force over the 1980s) remain poor. Those who do find jobs are faced with working conditions which leave much to be desired.

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See Also

Immigrant Women
Child Care

Part-Time Work

Women who work part-time are even more highly ghettoized than those working full-time and they receive fewer benefits and less protection as workers in the labour force. Since part-time work has often been urged as an answer for women who must work outside the home while maintaining full responsibility for home and family, the CACSW has had an ongoing interest and concern in this type of employment.

In the context of considering the disadvantages associated with female-headed one-parent households, in January 1977 the CACSW recommended that:

- **the differential earning power of women and men be given immediate attention with a view to restructuring the labour market. This would entail evaluation of: the role of part-time work in the economy, the problem of sexual segregation in the labour market, and the compounded economic problems of the one-parent family.**

In October 1979, the Council further recommended that the availability and conditions of part-time work in the federal public service be improved (see Public Service) for the benefit of women re-entering the labour force.

Early in 1980, the Canada Employment and Immigration Advisory Council decided to address the issue of part-time employment, and in March 1981 released its report to the Minister of Employment and Immigration, *Elements of a Policy on Part-Time Employment.* The CACSW presented a brief to this Advisory Council, as it did to the Commission of Inquiry into Part-Time Work. This Commission was established by the Minister of Labour in February 1982 and released its report in September 1983.

In May 1983, the CACSW published a major report on part-time work in Canada: *Women and Part-Time Work,* by Julie White.

This study explores the benefits and drawbacks to part-time as opposed to full-time work, for workers themselves and for the economy; it surveys major unions for their attitudes and actions with respect to actual and potential part-time members, and examines labour relations and employment standards legislation to see what protection is afforded to part-time workers under the law. A few striking finds of the study serve to outline the situation of women who are employed on a part-time basis:

- 24% of women in the labour force work part-time, compared to six percent of men. Almost three-quarters of all part-time workers are women;
- 74% of part-time workers, compared to 43% of full-time workers, are concentrated in only two industries, retail trade and services;
- in every occupational category, part-time workers receive proportionately lower pay than full-time workers. Part and full-time workers, however, are equally educated;
- workers are unionized in only 15% of part-time jobs, compared to 35% of full-time jobs;
- domestic workers, agricultural workers and students, many of whom work part-time, are often excluded from the protection of employment standards legislation;
- eligibility for unemployment insurance requires work of 15 hours per week; 37% of part-time jobs are for less than 15 hours per week;
- one out of five part-time workers would prefer to work full-time; 70% of these involuntary part-time workers are women.

Based on the findings of this study, in 1983-84, the CACSW has detailed recommendations on the aspects of part-time work that are under federal jurisdiction (see Appendix 1).

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See Also

Unions
Unemployment Insurance

Immigrant Women

Canadian immigration policies have always been designed to meet the demands of the labour market. Admission practices in the '50s and '60s sought to fill the need for professional and technical workers. During the same period, and through the '70s, an increasing demand for workers in service and manufacturing sectors led to the admission of many unskilled and semi-skilled immigrants, often in the "assisted relative" and "family class" categories. As a consequence, while one-fifth of Canadian-born women work in service industries and in product fabricating and assembling, nearly one-third of immigrant women are employed in these very poorly paid and ill-regulated sectors, typically under appalling conditions. They hold jobs in the garment industry, often doing piecework at home; on assembly lines; cleaning office buildings and hotels; waitressing and washing dishes; and as "charwomen" or live-in domestic workers. A 1979 CACSW publication, *Problems of Immigrant Women in the Canadian Labour Force,* examines the working conditions of these women.

Since 1973, many thousands of women have entered the country on temporary work permits which tie them to domestic work. In 1979, domestic workers were covered under minimum wage legislation only in Prince Edward Island. In Montreal, the average pay for a live-in domestic in 1979 was only $50, plus room and board, for a 50-60 hour work week. Domestic workers could not change employers without government permission, and were legally denied landed immigrant status. They were therefore vulnerable to employers' threats of deportation if they complained about working conditions or left their jobs. Most domestic workers returned to their country of origin after three years, when their temporary visas expired.

In the garment industry, where the majority of workers are immigrant women, conditions are only slightly better. Women working in this sector usually have permanent status in Canada, and are covered under provincial employment standards and labour relations laws. However, these laws do not offer adequate protection for any women workers, and are largely unenforced in this industry. Factory workers are often paid minimum wage, while women working at piece rates in their own homes earn even less. While 40% of workers in the textile and garment industry are unionized (higher than the national average), unions in this sector can offer little protection to the non-unionized majority.

In neither the factories nor their own homes are women likely to learn either official language, and can therefore learn little about their rights or their options in Canada. This makes them reliant on information supplied by employers, and extremely vulnerable to intimidation.

For instance, under the Immigration Act, a landed immigrant can be deported on suspicion of engaging or being likely to engage in subversive activities. It is easy to convince someone who knows this that they can be fired and/or deported for union involvement, or for complaining to provincial authorities about their pay or working conditions. With increasing unemployment in this sector, the exploitative power of the employer increases.

In June 1979, concerned with correcting the discriminatory impact of current policies and programs on working class immigrant women, the CACSW recommended that:

- **CEIC and the Department of Secretary of State provide community and/or workplace-based language and orientation programs to all immigrant women (regardless of their immigrant category or labour force participation), and that support services such as child care and transportation costs be provided;**

CEIC language programs remain open only to unemployed individuals who need fluency in one of the official languages to get a job. This last requirement excludes those women employed in the garment industry or in cleaning office buildings, where they speak their own language. In the fall of 1982, sponsored immigrants became eligible to participate in language courses and to receive training allowances (see Employment and Training Policies). The limited support services offered are transportation costs for those who must travel over 40 km per day, and child care in some provinces.

Part-time language training for adult immigrants seeking to gain Canadian citizenship is administered by the Secretary of State on a cost-sharing arrangement with the provinces. Immigrants are eligible to receive this training three years after they acquire landed status.

People without formal attachment to the labour force or without landed immigrant status must rely on community adult education programs. Many full-time housewives are thus ineligible for free language training, and employed women who maintain responsibility for household work are unlikely to find the time or energy to attend classes, especially if child care is not provided. Many immigrant women are thus denied access to language training and face tremendous obstacles in their day-to-day lives in Canada.

■ **the Ministers responsible for the Status of Women, CEIC, and the Department of Labour consult with all provinces to urge them to enforce employment standards legislation, especially with regard to domestic work and the garment industry, and to include domestic workers under this legislation where they have not already done so;**

Although CEIC has encouraged the provinces to enforce their legislation on working conditions, the legislation itself remains inadequate. Of the 13 Canadian jurisdictions (federal, provincial and territorial), domestic workers are still excluded from minimum wage laws in seven jurisdictions; lower minimum wage rates are set for domestic workers in four others, and the remaining two jurisdictions include only certain defined types of domestics in the general minimum wage provisions.

- **CEIC either change its immigration policies to allow domestic workers the right to acquire landed immigrant status, or cease importing domestic workers and upgrade the occupation to attract Canadian-born and landed workers; and that CEIC standardize better working conditions for domestics and enforce them through detailed worker/employer contracts; support the development of community-based placement centres; and take a more active role in monitoring working conditions and securing alternative jobs for domestic workers;**

Immigration policy with respect to domestic workers changed for the better in November 1981. Domestic workers can now apply for landed status from within Canada after two years, when their work permits are due for renewal. They can become permanent residents if they demonstrate "potential for self sufficiency" at that time, or a year later if they "fail" the first assessment. The government has designed a standard worker/employer agreement, specifying duties and hours of work, wages and accommodation, and time off with employer contributions for training. Domestics whose employers violate the terms have access to CECs to find other jobs. Violation of a prior agreement will make an employer ineligible to hire another foreign domestic worker. The monitoring and enforcement process however, still depends on a complaint from the individual worker to an employment centre.

Perhaps the most positive development over the past several years is the increasing organization of domestic workers themselves, who fought together for the minimum wage and for the new immigration policies. Criticisms levelled at the new policies by domestics monitoring their application include the claim that it is insulting to have to prove self-sufficiency, (especially if skills "upgrading" is required after holding steady work as a domestic), and in that this is almost impossible while the wages remain too low to live on.

- **CEIC and the Department of Labour assume responsibility for informing all immigrant women of their rights and for protecting them from discriminatory and exploitative employment practices and immigration policies;**

Information outlining the rights of employees is available in Canadian Employment Centres (CECs) to all immigrants who visit them, but there is no specific procedure to ensure all immigrants will receive all the information on their rights. Information and social services specifically for immigrant women are provided now through a few, small, community-based agencies and groups operating without adequate or stable funding.

- **CEIC appoint women with personal and demonstrated knowledge of the problems faced by immigrant women to the Advisory Council on Employment and Immigration.**

In September 1983, there was only one woman on the 19-member Advisory Council on Employment and Immigration. This member was not an immigrant. There were at the time two vacancies on the Council.

The past few years have seen some significant improvements in immigration policies vis-à-vis domestic workers, but overall the situation of immigrant women in Canada has not improved.

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See Also

Pensions
Citizenship and Passports
Volunteer Work

Occupational Health and Safety

Many workplaces have environments that are damaging to the health of the people who work there: factories, mills, office buildings, and kitchens are just a few of the places rife with chemical, physical, biological and psychosocial hazards. Although one is perhaps less likely now than 200 years ago to risk life and limb — literally — in the course of a day's work, the dangerous effects of many chemical substances and various forms of radiation are just beginning to be explored and regulated. New hazards, such as those associated with indoor air and fluorescent lighting, are attracting increasing attention.

Concern about hazards to the reproductive systems of workers has historically been focussed upon the danger to a woman's reproductive capacity and to the health of a fetus she is carrying, or may one day carry. It was assumed that men were not vulnerable in the same way. To "protect" women and their offspring from these hazards, women have been denied access to many jobs and professions (e.g., mining, the atomic industry). These jobs are higher paying than those occupations (also unhealthy) where most women work.

However, there is increasing evidence that men's reproductive systems are just as fragile as women's, and that a man's future children can also be harmed. Current practices allow men to be subjected to these hazards, but that is no solution, in that workers of both sexes should have the right to work under conditions which are not harmful to themselves or their families.

In April 1977 the CACSW recommended that:

- **the federal government sponsor and publicize research on health and safety in the workplace, and develop effective protective standards.**

Action at the federal level included the establishment, in 1978, of the Canadian Centre for

Occupational Health and Safety (CCOHS) in Hamilton. The CCOHS gathers, evaluates and distributes information to workers, unions, managements, governments and professionals, and provides a personal and computerized information and advisory service. The federal/provincial Advisory Committee on Environmental and Occupational Health has one working group developing guidelines for indoor air quality and another working on guidelines for pregnancy and work.

Women's groups, unions and governments have recently devoted a great deal of attention to the reproductive hazards associated with work on video display terminals (VDTs). To date though, it has not been conclusively proven that low-level radiation emitted by VDTs is harmful to operators. There are, nevertheless, several reports of increased frequency of birth defects among babies born to VDT operators. The terminals have been shown to cause a variety of other health problems, including headaches, eye strain and stress. The Public Service Commission allows pregnant employees to transfer temporarily from work on VDTs (if there is an alternative position available). However, no limitations have been placed upon the hours of operation of the terminals, despite recommendations from Labour Canada's Task Force on Micro-electronics and Employment issued in November 1982.

With respect to effective standards, Labour Canada's Occupational Safety and Health Branch (OSHB) is attempting a consolidation of existing health and safety legislation and standards, currently scattered across different government departments and pieces of legislation. The OSHB has also established an information service linked to the data base maintained by the CCOHS.

In June 1980, focussing specifically on reproductive health hazards, the CACSW published a series of detailed recommendations.

Those not covered below were concerned with medical training, research methodologies and public information.

- **legislation be developed, monitored and enforced to prevent discrimination and exclusionary practices in employment based on factors related to reproductive physiology;**

Part IV of the Canada Labour Code, governing workers in federally-regulated industries, deals with health and safety matters; revisions to the Code should be introduced in fall of 1983. As it now stands, the Code mentions no "protective" measures for female workers, neither allowing nor forbidding exclusionary employment practices. It is reasonably safe to assume that, in practice, it is women's "vulnerability" that continues to be stressed rather than the dangers to men and women alike. On the other hand, pregnant workers under the Code's jurisdiction are *not* exempted from work on VDTs.

- **properly trained and representative health and safety committees be established to monitor and enforce all standards and protective measures;**

Under the Canada Labour Code, the establishment of health and safety committees is only required once a concern with the health and safety of workers has arisen. Although the Code specifies that there be non-management members on such Committees, neither the sex nor occupational group representation is specified, allowing for possible omission of women or (for example) secretarial staff from committees. The Labour Canada Task Force on Micro-electronics and Employment has recommended that health and safety committees be permanent fixtures of workplaces with over 50 employees.

- **employees be informed of reproductive risks associated with their work and have the right to refuse dangerous work without loss of income or job security.**

The Code allows an employee to refuse work when there is imminent danger to the health and safety of workers, and ensures wages and job security. "Imminent" danger is defined negatively as equipment, conditions or circumstances not "normal" for someone in a particular occupation, or as radiation above established limits. By this definition, it may be difficult to challenge working conditions that are "normally" unsafe, or standards that are not adequate. In September 1983, work on VDTs was not found to pose an "imminent" danger.

In September 1982, the CACSW made further specific recommendations on legal, research and public information aspects of reproductive health, including hazards to people living near dangerous work-sites and recommended, with respect to radiation hazards:

- **uniform standards be established for all workers of both sexes exposed to radioactive substances.**

The Atomic Energy Control Board presently has standards which distinguish between women of childbearing age and other workers. The Board is in the process of developing one standard for workers of both sexes, while retaining special dose limits for pregnant women.

Reproductive Hazards at Work: Men, Women, and the Fertility Gamble, by Nancy Miller Chenier, was published by the CACSW in December 1982. It describes the reproductive hazards faced by male and female workers and the reasons why workplaces continue to be dangerous. Significant changes in ensuring the health and safety of federal workers, especially with respect to their reproductive health, have yet to be made. The process may be beginning but the task is immense.

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See Also

Public Service

Unions

The 1980 CACSW publication, *Women and Unions* by Julie White, revealed that only 27% of women in the labour force were unionized in 1976, compared to 43% of men, but that between 1966 and 1976, the percentage of women union members had increased from 17% to 27%. Their numbers had increased by 160%, compared to a 40% increase for men. By 1979, 29.3% of all organized workers were women. The growth in female union membership may be partially due to increasing unionization in the public sector (in which so many women work) during the 1970s.

Women and Unions demonstrated that the lower rate of unionization of women is attributable to a variety of economic and social forces, and not solely to the fact that the union movement is male-dominated. It is relatively recently that women have entered the labour force in large numbers, and they are mainly in white-collar occupations, while historically the strongest unions have organized blue-collar workers in industries where few women work (e.g., construction, mining, transportation). Employer anti-union campaigns in industries where women predominate (e.g. banking) have been powerful and effective. In addition, many women work in small workplaces that are particularly difficult to organize.

Through the collective bargaining process, workers gain some control over their pay, security, benefits, hours, and other working conditions. Union membership has offered women some protection in the labour force. For instance, the wage gap between men and women workers is narrower among unionized workers. Collective agreements may provide longer maternity leave or higher maternity benefits than that established by laws.

The CACSW recognizes the benefits gained by women through their membership and active participation in unions, and supports workers' right to organize. Therefore, in 1980 the CACSW recommended that:

- **unfair labour practice decisions be brought down quickly by the Canada Labour Relations Board and that sanctions in the Canada Labour Code against illegal obstructionism on the part of employers be strengthened.**

The Canada Labour Relations Board (CLRB), certifies trade unions, investigates grievances brought before it and acts as a mediator to resolve labour disputes under the Code. There are, unfortunately, no useable recent figures from the CLRB itself on the time taken to process complaints. The Law Reform Commission of Canada reported in 1981 that the CLRB had streamlined its procedures for processing complaints of unfair labour practices and unlawful strikes and lockouts, but that procedures were still characterized by duplication and delay. Fines are imposed for offenses.

The Canada Labour Code covers workers under federal jurisdiction (banking, transportation, communications, etc.). The Code forbids employers from altering any term or condition of employment during the certification process (except under a collective agreement or with Canada Labour Relations Board's permission), and protects the employee's right to participate in a union.

- **the federal government investigate labour practices in the federal banking system as they pertain to the unionization and union activities of women;**

Banks have more complaints laid against them than any other industrial sector dealt with by the CLRB, and are one of the most frequent objects of complaints brought to the Canadian Human Rights Commission. Most bank employees are women. Early studies of women in banking described the low wages and barriers to women's advancement. In 1980, less than 1% of bank workers were unionized. Unionization drives, concentrated in B.C. in the mid-70s, were effectively stopped (for a time) by employer obstruction, the difficulties of branch-by-branch organization, and competition between large union councils and small independent unions for the right to organize bank workers.

To date, the federal government has not conducted an investigation of labour practices in banking, although the Women's Bureau of Labour Canada is currently studying unionization in the industry.

- **Labour Canada advertise more widely women's right to organize in unions.**

The right to organize is incorporated in the Canada Labour Code; however, no special measures are taken to publicize this right more widely.

In the 1980s, union rights and powers are being eroded, particularly in the public sector (see next section). Action on the above recommendations would benefit federally-regulated workers outside the Public Service, but there is very little progress to report.

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See Also

Public Service
Occupational Health and Safety
Parental Benefits

The Federal Government as Employer

The federal government is the nation's largest single employer of women, with 89,922 female workers in 1982. The CACSW has from its inception monitored the Public Service's record and progress on women's employment, publishing its findings regularly and recommending improvements. The CACSW has made recommendations on employment in the Public Service on a wide spectrum of issues related to the conditions of women in the labour market generally: pay and status, affirmative action, parental leave, support services and labour relations. The government that legislates employment standards and labour relations covering these workers is also, in this case, the employer responsible for implementing them. There is therefore a huge potential for the federal government to lead the way in ensuring equality for women in employment. There is also, of course, potential for abuse, for the same reasons. As a model employer, the federal government leaves much to be desired.

Public Service

- ***Affirmative Action*. In 1975, the CACSW recommended that various affirmative action measures be implemented to speed the promotion of women to senior Public Service positions.**

In 1971, following the recommendation of the Royal Commission on the Status of Women in Canada, the Office of Equal Opportunities for Women was set up in the Public Service Commission to encourage departments of the federal government to appoint and promote women to intermediate and senior positions. In 1975 an equal opportunity action policy was adopted for the entire Public Service. Between 1980 and 1982, affirmative action pilot projects were set up in five departments.

These measures have not resulted in significant improvements for the overall status of women in the Public Service. While women now make up 40.4% of Public Service employees (up from 30.3% in 1973), they are still ghettoized in the lowest-paid positions. Of all women in the Public Service in 1982, 70.7% worked in the Administrative Support and Operational categories, and only .2% in management, whereas 2.4% of men were in management and 61.1% of men worked in officer categories. At the officer level, it is only in the Administration and Foreign Service category that women's participation has improved substantially, from 15.4% in 1973 to 32.5% in 1982. Across all occupational groups, women's participation has increased most at the junior level and least at the executive level since 1976.

An affirmative action program throughout the Public Service was announced in June 1983. Each government department will be required to develop an affirmative action plan, including the removal of barriers to employment in existing systems and the setting of numerical goals for the representation of women, native people and handicapped people. Temporary special measures to redress the effects of past discrimination are also being introduced across the Public Service, including a goal for representation of women in the Management category. Consultations with unions and with target groups are ongoing; departmental action plans are expected to be set in motion in 1985-86. The impact of these most recent measures remains to be seen.

- ***Parental Benefits and Child Care.* In September 1976 and again in January 1979, the CACSW made a series of recommendations concerning the provision of adequate maternity and parental benefits in the Public Service. The later recommendations were for:**

two weeks' maternity benefits to cover the waiting period before UI benefits are received;

one week paid leave to all fathers on the birth of a child, and to both parents on adoption of a child;

other types of leave, such as paid leave for illnesses occurring during a pregnancy, and a variety of parental leave options.

Public Service employees are eligible for maternity leave without pay from 11 weeks before childbirth to 26 weeks after. During maternity leave, a woman continues to accumulate seniority towards certain benefits and is assured a return to the same job; the employer continues to pay its share of her benefits. A portion of her income is replaced by Unemployment Insurance (UI) for 15 weeks of leave, if she is eligible.

Improvements to this basic provision have been gained in negotiations carried out by 64 of the 76 Public Service bargaining groups since 1980. This Family Responsibilities Benefits Package does provide maternity benefits at the level of UI benefits (60% of salary to a maximum of $231 per week) during the two-week waiting period. Periods of maternity leave are included in calculations for salary increments. Paid paternity leave, however, remains at one day only. Paternity and adoption leave without pay for up to 26 weeks are available; if both parents use this option, their combined leave cannot exceed 26 weeks. Paid leave of up to five days per year for family responsibilities and a lifetime maximum of five years unpaid leave to care for young children are also included in this package, along with various periods of leave without pay for personal needs and relocation. In addition, four groups have successfully bargained for the employer to make up the difference between UIC benefits and 93% of their full salary for all 17 weeks of maternity leave covered by UIC.

Parents working in the Public Service, therefore, are eligible for substantial benefits. Unfortunately, the federal government's six and five wage restraint program, implemented in June 1982, has prevented more unions from negotiating these items.

- ***Child care.* In January 1979, the CACSW recommended that child care centres be established in workplaces.**

Since 1982, Treasury Board has approved four departmental proposals for day care centres. These centres, however, represent enormous efforts on the part of parents. To obtain approval for a child care centre in a federal workplace, a shortage of child care services in the area must be demonstrated and needs studies conducted. A legally incorporated association must be organized, provincial and municipal subsidies secured for parents, and provincial and municipal standards met. Parents are responsible for meeting all costs other than setting up and maintaining centres.

- ***Part-time work.* Conditions of part-time work have been no different in the Public Service than in the private sector** (see Part-time Work). **In October 1979, the CACSW recommended that opportunities for part-time work in the Public Service be expanded and that, simultaneously, the economic and social disadvantages of part-time work be corrected.**

In effect, the Public Service Commission has expanded part-time work but failed to eliminate the disadvantages associated with it. Different rights and protections are accorded to employees based on whether they work over 15 hours, between 12½ and 15 hours, or less than 12½ hours per week. Only those working over 30 hours per week participate in the pension plan. Since no information is collected on contract workers or on temporary help hired through agencies, it is not known how many of these federal workers are part-time, nor under what conditions of work they are employed. Among "visible" Public Service employees, 83.9% of all part-time employees in 1982 were women.

- ***Equal Pay*. In the context of studying women and unions** (see previous section), **the CACSW in 1980 recommended that the federal government as employer work with the Public Service unions in achieving equal pay for work of equal value.**

In the Public Service, as they are throughout the labour market, women are paid less than men. In 1981, 70% of female Public Service employees earned less than $20,000, compared to only 28% of men. The wage differential continued to increase through 1982, due to the federal six and five percent wage restraint program, which resulted in the lowest pay increases being collected by those with the lowest salaries. Public Service unions were also restricted in negotiating any monetary clauses of their collective agreements, since the cost was deducted from the allowed increases, lowering wage settlements even further.

A few successful equal pay cases have been brought before the Canadian Human Rights Commission by Public Service employee groups. Librarians, for example, were found to be performing work of equal value to that done by historical researchers, and were awarded pay increases and back pay. The problem with this procedure is to find two groups of workers, one predominantly female and the other male, whose work can be compared for purposes of determining value. The federal government has as yet failed to ensure that the legislation on equal pay for work of equal value is applied within the federal Public Service, and complaints continue to be heard before the Human Rights Commission on a case by case basis.

The CACSW's latest report on the Public Service, by Julie White, explores some of these issues in greater depth, and examines other employment conditions in the Public Service. A grievance procedure has recently been developed to deal with sexual harassment, but has been criticized for placing rather heavy responsibilities on the victims of harassment. Issues of environmental health and technological change within Public Service workplaces are analysed in White's book as well as the terms and conditions of work affecting contract and term workers.

Appointments

Women are under-represented on boards, commissions, councils, committees and crown corporations whose members are appointed by the federal government. These bodies recommend and enforce government policies affecting all our lives and the representation of women's interests on them is crucial.

Appointments are made by orders-in-council (Cabinet), all of which are reported in the *Canada Gazette.* Information on appointments is extremely difficult to obtain, since no consolidated listing of appointments (as distinct from all other orders-in-council) is available.

In July 1973 the CACSW followed an earlier recommendation made by the Royal Commission on the Status of Women in Canada, and recommended to the federal government that:

- **as many women as men be appointed to boards, commissions, councils, committees and crown corporations.**

In 1975, women were 12.8% of the membership of these federal bodies. By 1980, of 1248 appointments made to 158 agencies, only 189 (15.1%) were women. The numbers of women appointed did increase over the years, but the proportions changed very little. The CACSW maintains a talent bank as a resource for the appointment of women to these federal bodies.

By 1981, after releasing two studies documenting the lack of progress in placing women on these bodies, the CACSW reiterated its 1973 recommendation, specifying a number of agencies and crown corporations for immediate action, and demanded in addition that:

- **in accordance with the Freedom of Information Act, detailed data on all appointees be made available to the CACSW so that the representation of women may be monitored.**

Although data collection may be easier in the near future due to computerization of the information, there is still no policy that would provide interested groups with the information they require. As a result, neither the CACSW nor any other group has been able to assess the situation over the last three years.

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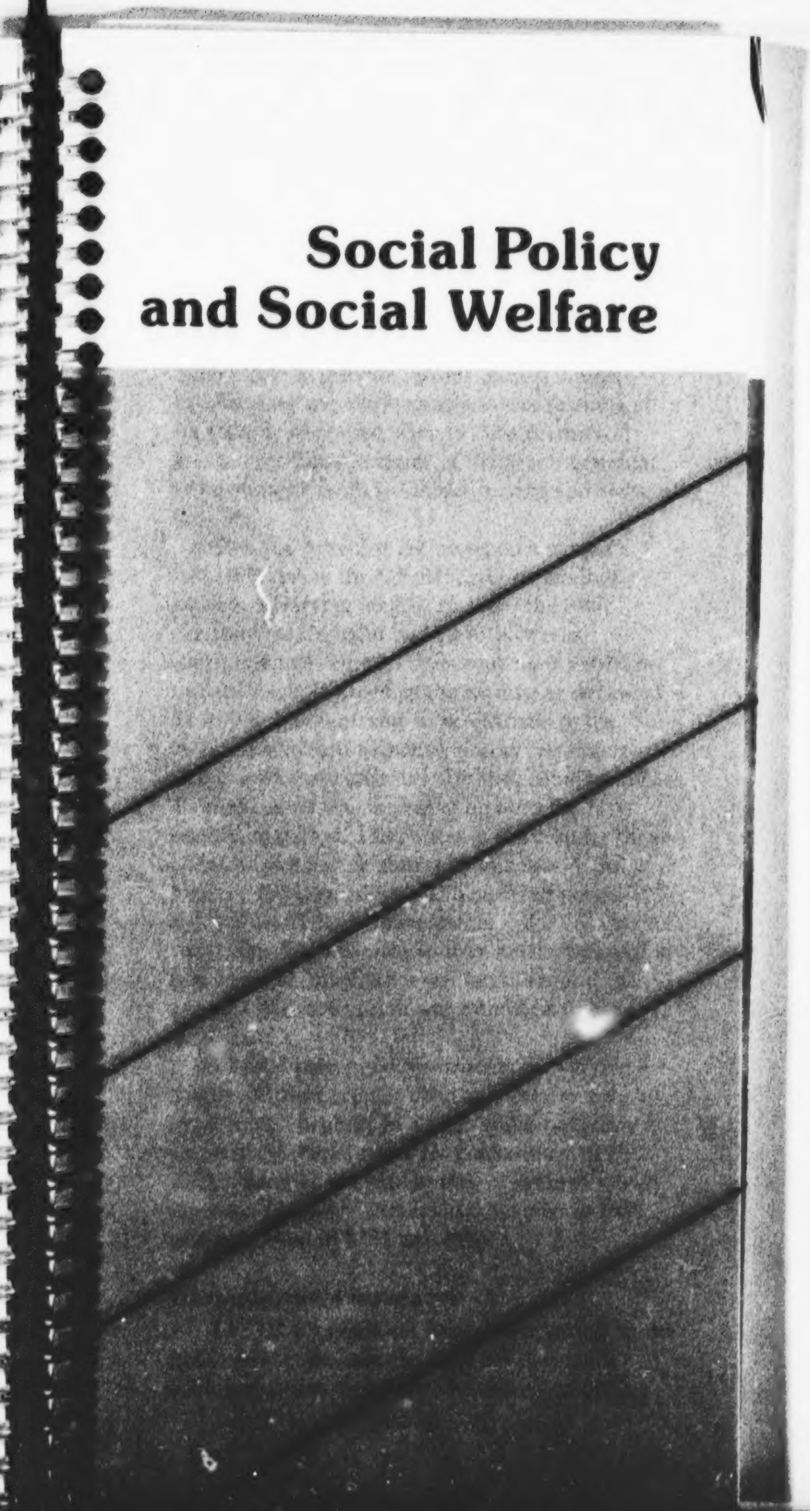
See Also

Child Care
Parental Benefits
Occupational Health and Safety



Social Policy and Social Welfare

The Unemployment Insurance Program

The unemployment insurance (UI) program was introduced in 1940 to provide income protection for workers between jobs, and it has been modified over the years. In 1971, benefits were added to provide income during illness, childbearing and retirement. Certain features of the plan were revised after 1975 to permit a greater flexibility in terms of maternity benefits; other changes excluded more workers and reduced benefits.

Benefits provided are based on a worker's contributions to the UI plan, and on eligibility periods of varying length. In 1983, the basic entrance requirement was 10 to 14 weeks (depending on regional unemployment levels) of insurable employment in the qualifying period of 52 weeks. New entrants or re-entrants to the labour force faced higher eligibility requirements which were instituted in 1979; they must have had 20 weeks of insurable employment in the qualifying period. This was also the case for those claiming sickness or maternity benefits. Until January 1984, an additional qualifying period applied to maternity benefits only: the "Magic 10" rule, requiring a woman to have been employed or receiving UI benefits for ten weeks around the period when conception was estimated to have occurred.

The UI plan provides benefits for varying lengths of time; regular claimants may receive up to 50 weeks' benefits in a year, while maternity and sickness benefits are for a maximum of 15 weeks. Benefits are paid at 60% of average weekly insurable earnings (decreased from 66% in 1979), to a maximum of $231 per week.

Unemployment Insurance

The UI program has been under review in the last several years, and the CACSW has made submissions and recommendations since 1977.

In 1979, the CACSW protested the increased eligibility requirements and lowered benefits, and recommended in 1980 that:

- **extensive consultation with women's organizations working directly on the issues of employment and unemployment be held throughout any review of the Unemployment Insurance Program;**

In 1980, the Department of Employment and Immigration created the Unemployment Insurance Review Task Force, which published its recommendations in 1981 under the title *Unemployment Insurance in the 1980s*. Some of the Task Force's recommendations would, if implemented, have improved women's access to the UI program. Others would have reduced access to UI for all workers, including women. There was no representation from women's groups on the Task Force itself, although some women's organizations were invited to respond to the recommendations. The Task Force completed its work in 1982.

- **eligibility requirements and benefits be non-discriminatory and recognize the work-life experiences of females as well as males;**

Although eligibility requirements and the calculation of benefits are identical for women and men, their impact on women is different because of the distinctive patterns of female labour force participation. A woman may enter and re-enter the labour force several times, after periods spent bearing and raising children, or simply because women's occupations typically offer little job security. New entrants and re-entrants must have the longer, 20-week period of insurable employment to qualify for benefits. Most part-time workers are women; until 1982, only those who worked more than 20 hours per week were eligible for UI. This requirement has been lowered to 15 hours per week. However, in 1981 one million jobs involved less than 15 hours per week. Moreover, many part-time jobs do not involve regular weekly hours; if a person is employed 10 hours one week and 20 the next, only the first week will be counted in establishing eligibility for benefits.

The calculation of benefits as a percentage of income (up to a maximum level of insurable income) means that those with lower wages receive lower benefits when they are unemployed. Since women are paid less than men throughout the labour market, their UI benefits are correspondingly lower, though the needs of women are at least as great.

- **any benefit rate structure based either on number of dependents or on family income be rejected;**

Changes to the plan to base benefits on family income or on dependents were not recommended by the Task Force, although such changes had been seriously discussed before.

- **a specific employment strategy for women be developed immediately, with one of its goals being to reduce female unemployment.**

Although significant improvements have been made in the provision of maternity benefits (see next section), the UI program remains inequitable and fails to respond fully to women's work-life experiences. Moreover, in recent years the eligibility requirements have been tightened and benefits reduced, affecting all workers, and to have a particular impact on women because of their lower wages and irregular employment patterns. Unfortunately, no further changes to the Unemployment Insurance Act are foreseen at this time. (See Employment and Training Policies)

Parental Benefits

Although maternity benefits have been provided through the Unemployment Insurance plan since 1971, special conditions were introduced to determine a woman's eligibility —

conditions which have seriously restricted women's access to income protection during pregnancy and after childbirth.

For instance, section 46 of the Unemployment Insurance Act was worded so that, for a 14-week period around the time of childbirth, pregnant women who did not meet requirements for maternity benefits were not entitled to regular or sickness benefits either. This section was unsuccessfully challenged in the Supreme Court of Canada in 1978 by Stella Bliss. Stella Bliss did not qualify for maternity benefits. She was also denied regular unemployment benefits even though she *was* capable of and looking for work shortly after the birth of her child. She would have been entitled to regular unemployment benefits, except for section 46. It was argued that this restriction placed on pregnant workers constituted discrimination by reason of sex, and was contrary to the Canadian Bill of Rights. The Supreme Court ruled that section 46 did *not* constitute discrimination, stating that "any inequality between the sexes in this area is not created by legislation but by nature". As recently as 1982, this section of the Act was again upheld in denying a pregnant woman sickness benefits while she was off work with acute appendicitis, a condition in no way related to pregnancy.

However, section 46 was finally deleted from the Act, effective January 1984, and other changes were designed to eliminate obstacles to women's receipt of maternity benefits. The "Magic 10" rule was repealed. The timing of benefits was made more flexible; for example, the mother of a premature baby can now claim her benefits after the child comes home from hospital. Prior to the amendments, she would have been forced to receive her benefits in the period immediately following the birth, or not at all.

Other restrictions remain, however. As for all UI recipients, there is a two-week waiting period before receipt of maternity benefits. This is intended to encourage a return to work, but is clearly inappropriate in the case of women expecting to give birth. Benefits are provided for 15 weeks at 60% of regular earnings, which means serious financial hardship upon having children. In addition, up to 30% of maternity benefits must be paid back by a woman earning more than $22,620 per year. Workers who are laid off during labour disputes are ineligible for UI benefits, but extending this restriction to laid-off pregnant workers is unreasonable, since they need maternity benefits whether or not they are involved in a labour dispute at the time.

Another major problem with the provision of maternity benefits is that entitlements for leave and job security are determined by employment standards legislation, not by the Unemployment Insurance Act, and vary widely among different jurisdictions. In the federal jurisdiction, the Canada Labour Code requires a woman to have worked a full year *with one employer* to qualify for leave and for her to have the assurance of an equivalent job when she returns. A woman who has been employed for longer than 20 weeks but less than a year may claim 15 weeks of UI benefits, but could lose her job. The same thing can happen to a woman who has worked a year (or more), but with several different employers. Similar discrepancies exist in most provincial laws.

Amendments to the Canada Labour Code are expected to be introduced in 1983 and it is hoped they will improve parental rights and benefits. The CACSW has supported these parental benefit amendments in principle (March 1983).

Since its establishment, the CACSW has been concerned with inadequacies and restriction on maternity benefits, and with serious gaps in social services provided to new parents. Although the CACSW applauds the recent improvements to maternity benefits, there has to date been no action on four of the following five recommendations:

- **that unemployment insurance benefits be paid to adoptive mothers and fathers;**

As of January 1, 1984, unemployment insurance benefits will, for the first time, be paid to adoptive parents. Either of the parents adopting a child will be eligible for 15 weeks of benefits, with qualifying periods the same as for maternity benefits, if his or her presence is shown to be required at home.

- **that the two-week waiting period for maternity benefits be eliminated;**

The two-week waiting period is still in effect. Some unions in the federal and Québec public services have successfully negotiated for the employer to provide benefits during this period (see Public Service).

- **that the disqualification for UI of women who have problems making child care arrangements be eliminated.**

All UI claimants who are charged with the care of a dependent child must show that child care arrangements have been made before they are deemed eligible for UI benefits. The policy is that in most cases a simple statement will be sufficient, but a claimant may be required to substantiate the statement. There are two problems with this exclusionary policy. One is the general lack of adequate day care services (see next section). The other is the difficulty in getting someone to agree to look after one's child when one is not yet working and therefore cannot guarantee when or if the care will be needed or paid for. The policy remains in effect, although its exclusive application to women was changed in 1978.

- **that there be payment of a maternity or parental allowance to women working in the home following the birth or adoption of a child;**

Under the UI plan, benefits are provided only to applicants who demonstrate their "attachment to the labour force"; full-time homemakers are thus ineligible for any UI benefits. Family Allowance payments are the only income provided to all women after the birth of a child.

- **that, if required, free visiting homemaker services be provided by provincial and federal governments, under the Canada Assistance Plan, during the 15 weeks following the birth of a child.**

Under the Canada Assistance Plan (CAP), a federal-provincial cost-sharing arrangement, the federal government provides funding if the provinces provide the services and if the services are provided to individuals or families in need as determined by a financial test.

It is the prerogative of provincial governments to offer visiting homemaker services, and to decide whether they will be free. The availability of free homemaker services in Canada thus depends upon provincial social service provisions, and on the particular financial situation of a family.

In all this discussion it must be clear that maternity benefits are not parental benefits. Except in the case of adoption, only mothers are eligible for UI benefits on the coming of a child. Fathers who might wish to participate fully in the care of infants must usually forego job and income entirely. Only when legal and institutional barriers are removed so that parents themselves may decide which of them will take leave to care for their child(ren) will either men or women be free to balance their commitments to family and employment. The CACSW is in the process of developing proposals to suggest how this could be done.

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See Also

Part-Time Work
Family Allowances
Taxation
Divorce, Support and Custody

Child Care

Traditional two-parent, one-income families are in the minority today; many other family forms, such as one-parent families, childless couples, and couples with children where both parents are employed, are more common. Female labour force participation has been increasing steadily, and the most dramatic increase has been for mothers of young children. Between 1967 and 1980, the participation rate of mothers with children under age six rose from 16.7% to 40.2%.

Our society offers little support to fathers who wish to care for their children. Social pressures, institutional barriers and working conditions all limit the roles assumed by men as parents and reinforce the notion that women can and should bear the total responsibility for raising children. For mothers who work outside the home, alternative means of child care must be found, but in this country, it is not an easy task.

In 1980, approximately 760,000 children under age six in Canada needed some form of alternate child care. There were 109,135 spaces available in approved group or family day care facilities — one place for every 9.16 children. As a result of the scarcity of regulated day care spaces, many families must make private arrangements for the care of their children. As few provincial standards are enforced outside approved day care centres, the quality of this informal care can vary from very good to very bad.

Lack of child care services was one of the earliest identified barriers to women's full participation in economic, social and political life. In 1970, the Royal Commission on the Status of Women in Canada, and many women's and day care organizations since that time, called for the adoption of a National Day Care Act, to establish access to affordable, quality child care as a right of all parents working outside the home. A National Day Care Information Centre was established in 1972 within the Department of Health and

Welfare to consult on day care services, but this has been the extent of federal initiative.

In 1973, the CACSW first expressed its deep concern with the inadequacies of child care services in Canada and in 1979 recommended that:

- **the federal government co-operate with provincial and territorial governments to establish effective child care programs and facilitate the entry and re-entry of women into the workforce.**

Child care services are within the jurisdiction of provincial and territorial governments, and the standards and regulations differ from one jurisdiction to another. The federal government, through the Canada Assistance Plan has, since 1972, provided up to 50% of the provinces' costs of day care for families in need. These subsidies are only available in provincially licensed and approved facilities and in some provinces only in non-profit facilities. The number of families who benefit under this program is small in relation to the number of families who need child care.

Users of day care who are not deemed to be needy must pay the full costs. These costs are generally high despite the fact that day care workers (mostly women) are typically paid very low wages. The full costs of day care are not deductible as an expense for income tax purposes (see Taxation).

The CACSW has also recommended the establishment of day care services in federal workplaces (see Public Service), and has continued to voice its dissatisfaction with the lack of child care services. A brief on day care was published in 1982, and a larger study, drawing together many aspects of the situation (availability, cost, parental preferences, quality, standards, etc.) is forthcoming. Upon publication of this study, the CACSW will develop a series of proposals and recommendations on a new Canadian child care system.

A significant recent development in Canada was the founding of the Canadian Day Care Advocacy Association, in September 1982. The Association is initiating a national campaign based on demands for a federal/provincial maintenance grant, a National Day Care Act, establishment of national standards and the goal of universal accessibility to quality child care.

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See Also

Employment and Training Policies
Parental Benefits

Family Allowance

The Family Allowance is a universal social benefit; that is, it is paid to all mothers (in some cases to fathers or guardians) of children under 18, as a right and not as a result of fulfilling any eligibility criteria. The family allowance in 1983 is $28.52 per child per month.

In 1974, the family allowance was indexed to the cost of living, but since then indexation has been suspended for various periods, resulting in a cumulative decrease in the real value of these payments. In 1976, the federal government suspended indexation for the year as part of its austerity program; in 1979, family allowance payments were reduced to the 1974 level when the Refundable Child Tax Credit was introduced (see Taxation).

Concerned with proposals to reduce the universal system of family allowances, in 1980 the CACSW recommended that:

- **the present system of universal family allowances be maintained.**

Although the family allowance is still a universal benefit, its value has been further reduced since the time of this recommendation. In 1982, increases were limited to six percent for 1983 and five percent for 1984, according to the federal restraint program (see Public Service) with the effect again of decreasing the value of payments in relation to the cost of living. This decrease is, of course, felt most by low income families who depend on the family allowance to provide necessities for their children. The increasing vulnerability of family allowances to government restraint programs may indicate a major shift in policy — a shift away from universality to a selective system ostensibly intended to benefit those parents most "in need."

The arguments against this possible shift focus on two considerations. In the first place, reducing the family allowance to decrease government spending is an ineffective strategy, since the benefits are taxable and therefore partially recoverable from higher income earners. The greatest benefits *already* go to those who need them most. The costs of administering the program would also increase greatly if eligibility has to be established and abuses guarded against. The second argument is based on the principle of universality; the universal family allowance confirms the value of childrearing to society at large, and avoids the social stigma involved in receiving benefits based on one's financial position.

The universal family allowance is a benefit received by a majority of Canadian families. It is the sole consistent economic recognition of the contribution of all mothers in this society, and is in many cases the *only* independent source of income for women working full-time in the home. It is a crucial part of Canada's social security system and must be protected as such.

Further Reading

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See Also

Child Care
Parental Benefits

Taxation

In 1977, the CACSW took up the question of how the Income Tax Act affects women as workers, wage earners and parents. The following recommendations were adopted at that time.

- ***Joint Taxation*. The CACSW rejected the introduction of a system of joint taxation of spouses' incomes.**

A joint taxation system (proposed by the RCSW and narrowly rejected by a 1975/76 federal inter-departmental committee on the taxation of women), determines both spouses' rates of tax on the basis of their combined incomes; the rate of tax increases with income earned, as in the current system. Joint taxation would impose higher taxes on the lower-income spouse (usually the wife) in order to subsidize lower taxes for the higher-income spouse (usually the husband). The tax increases over current levels for two-earner couples caused by this system would be likely to discourage women from working outside the home. The CACSW argued that the joint system, perhaps ideal in a society where spouses enjoy full financial equality and economic partnership, would have the effect in *this* society of reducing the financial security of married women with personal incomes. The CACSW concluded that until Canadian women enjoy full equality within marriage, it would be premature to introduce such a system. The joint taxation system has not been instituted, although some tax benefits (e.g., the child tax credit), are determined on the basis of "family income."

- ***Wives or husbands employed in their spouse's unincorporated business or farm.* The CACSW recommended the repeal of a section of the Income Tax Act preventing the owner of an unincorporated business or farm from deducting as an expense the salary paid to his or her spouse.**

This law discouraged the (usually male) owners of such businesses from paying salaries to their wives for their work in the enterprise. It also denied the wives access to UIC, pensions and other benefits as well as the salary itself. This section of the Act was dropped, effective for the 1980 taxation year; those employing a spouse in their unincorporated business or on the family farm can now deduct this person's salary as an expense. A similar restriction regarding salaries paid to a spouse by a partnership including the other spouse was repealed at the same time.

- ***Husband/wife partnerships.*** **The CACSW recommended the immediate repeal of the section of the Income Tax Act allowing Revenue Canada, at its discretion, to deem a spouse's share of partnership income to be the income of the other partner/spouse for tax purposes.**

The CACSW concluded that this clause was discriminatory and unnecessary, since it discouraged husband/wife partnerships even though adequate provisions exist elsewhere in the Act to prevent partners from artificially reducing their combined tax burden. This section of the Act was dropped effective for partnership fiscal periods beginning after December 11, 1979. Husband/wife partnerships are now treated as any other partnership.

- ***Deductions for child care expenses.*** **The CACSW recommended that the federal government replace the deduction for child care expenses with a flat-rate, no-receipts credit to single parents in the labour force and to two-earner couples with children, giving the credit in the latter case to the lower-income spouse.**
- **Recognizing that this strategy fails to acknowledge the contribution of women caring for their children who are not also working outside the home, the CACSW believes that child care credits refundable to all mothers at home should be among the government's long-term goals.**

In 1983, the federal government raised the deduction for child care expenses to $2,000 per year per eligible child or the lesser of $8,000 per family and two-thirds of the claimant's earned income (from $1,000 and $4,000, respectively). The discriminatory aspect of the Act, whereby a married father living with his wife could only claim the deduction if his wife were imprisoned or incapacitated, was removed. The spouse with the lower income must now ordinarily claim the deduction, as the CACSW recommended, although if one spouse is a student the spouse with the higher income may claim it.

The increase in the amount of the deduction is of course an improvement, but does not approach the full costs of day care (which range from $2,500 to $6,000 per year or more). Furthermore, the claim for the deduction must be supported by receipts, which many parents cannot produce since the people who provide the care for their children are unwilling to supply receipts because they would be obliged to declare their income from this source.

However, all of these deductions are regressive forms of taxation in that they benefit higher-income earners most. Deductions reduce the amount of taxable income. Those with higher incomes and a consequently higher tax rate can save more in unpaid taxes than can those with the same child care expenses but whose taxable income is already so low that they would pay little or no tax anyway. This is why the CACSW recommended a *credit* rather than a deduction for child care expenses.

- ***Tax benefits to parents.*** **At the time these recommendations were made, the government had just introduced the Refundable Child Tax Credit (RCTC) which took effect in 1978. The CACSW commended the new credit, and recommended that the Exemption for Dependent Children be abolished and the funds thereby saved be used to increase Family Allowance payments (which were rolled back when the RCTC was implemented).**

Many other organizations have also called for the abolition of this regressive measure. The National Council of Welfare reported in 1983 that taxfilers in the top half of the income range receive over 90% of all tax savings from the exemption. When one considers this fact in relation to the argument for erosion of family allowances, that only the needy should be receiving social benefits, the inconsistency is glaring and the case for the abolition of this measure is clear.

The exemption is currently $710 for each child under 18. The 1983 federal budget included the proposal to de-index the exemption. Though this is seen by some as a step towards abolition, it will have the effect simply of decreasing the value to tax payers who do benefit. Legally, a child is still deemed under the Unemployment Insurance Act to be a dependent of the father, unless proven otherwise. In administering the Act, Revenue Canada allows the dependent child exemption to be claimed by whichever parent is agreed on by both parents. In two-earner families, it is usually claimed by the higher-income spouse, since the family benefits most this way.

The Refundable Child Tax Credit (RCTC), on the other hand is as progressive a measure as the family allowance; it provides greatest benefits to those with the least family income. Since the credit is offset against tax payable, its full value is enjoyed by all who receive it. At one end of the scale, those who have no taxable income receive a refund cheque for the full amount of the credit. At the higher end of the scale, the amount of the credit decreases as family income grows past a certain point.

When it was introduced, the amount of the RCTC was indexed to the cost of living, and the family income threshold above which the credit begins to reduce was also indexed. However, the simultaneous reduction in family allowances resulted in a drop in regular income to parents. Monthly family allowance cheques were smaller, and although parents could expect a refund from the RCTC at the end of the tax year, it did not meet the day-to-day costs of raising children.

- **Therefore, in 1980, the CACSW recommended that the RCTC be increased for families with lower than average incomes, and that the credit be paid in monthly instalments.**

The basic credit has increased to $343 from $200 since 1978, by virtue of regular indexation and a $50 increase introduced in 1982 to compensate for the de-indexation of family allowances for 1983 and 1984. The credit is not, however, refunded monthly as recommended. Furthermore, the 1983 federal budget proposing that indexation of the RCTC be resumed in 1984 and subsequent years also proposed the simultaneous de-indexation of the threshold level of family income above which the credit is reduced. This will mean that, over the years of inflation, the full credit will benefit families with progressively lower actual spending power.

- ***Alimony/maintenance payments.* In 1977 and 1978, the CACSW made a series of recommendations on taxation measures relating to alimony and maintenance payments. For the full text of these recommendations, see *Annotated Recommendations on Women and Taxation* (CACSW, January 1978).**

The recommendations addressed the fact that payments for the support of an estranged spouse and/or child(ren) can, if certain conditions are fulfilled, be deducted from the income of the paying spouse (usually the husband), and must be declared as a taxable income by the receiving spouse (usually the wife). But women who separate or divorce are very seldom adequately informed about tax implications when alimony or support payments are being established.

As a result, many women suffer all the disadvantages of the system, by paying tax on their support payments, while the husbands or ex-husbands get the tax breaks. Furthermore, married men living *with* their families are not allowed to deduct what they pay to support their children, so that estranged fathers are in a better tax position than fathers who live with their children. (This peculiarity would be eliminated if the exemption for dependent children were abolished).

The CACSW distinguishes payments for support of children from those supporting spouses, arguing that money received for the support of a child and not for one's own use should *not* be deemed part of a person's taxable income. Nor should child support payments be a deductible expense for the individual paying them. When both spouses are contributing to a child's support, the tax benefits available to parents should be split between them.

The only relevant change to the tax status of support payments occurred in 1981. In respect of maintenance orders made after December 11, 1979, the ability to claim support payments as a deduction was *extended* to those supporting estranged common-law spouses. This may well be an incentive to men to make support payments, as was argued by provinces urging the change, but it does nothing to correct women's disadvantageous tax position.

Other recommendations included the replacement of the regressive "equivalent-to-married" exemption, claimable as a tax credit by single parents and allowing lump sum support payments to be deductible over time in the same way as periodic support payments. There has been no change in either of these tax measures.

The way in which the government determines income tax provisions is a matter of social policy as well as a question of collecting revenues. There has been some progress towards eliminating overt sex discrimination from the Income Tax Act. However, the Act still has a differential impact on women because of their social and economic position in society. It influences women's level of disposable income and financial independence, and thus their ability to care for their children, their access to day care, and the choices they make about working outside or inside the home. The tax system must change in order to accord women the same advantages and financial security enjoyed by men.

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See Also

Child Care
Divorce, Support and Custody

Pensions

Whether a Canadian woman works in the labour force full-time or part-time, whether she leaves work to raise a family and subsequently returns, or whether she works as a homemaker, she can expect to be poor in her senior years. Pension reform in Canada is an absolute necessity if this injustice is to be remedied.

There are two types of pension plans available. Private or employer-sponsored plans are provided in some workplaces, and the Canada and Québec Pension Plans (C/QPP) cover all workers with incomes above $1,850 per year in 1983. The C/QPP is earnings-related; that is, income received from a pension plan is directly proportional to one's previous wages. Since women's earnings average less than 60% of men's they receive correspondingly lower retirement benefits.

Only about one-third of Canadian women with paid employment participate in employer-sponsored plans; the large majority must rely on the minimal benefits provided by the C/QPP for income in their old age. The C/QPP pays 25% of a person's average lifetime earnings up to $345 per month in 1983. The supplementary income provided under the Old Age Security/Guaranteed Income Supplement program (OAS/GIS) often fails to bring the retirement income above the poverty level.

The women who is a full-time homemaker, or who has a part-time job but earns less than the minimum salary required to participate in the C/QPP, has only the OAS/GIS to fall back on. Homemakers are not registered under the C/QPP. The Canadian pension system assumes that married women are dependents of their husbands who will provide for them and that the work done in the home is not work of pensionable value.

However, if a husband dies or the spouses divorce, the woman can no longer depend on her husband or his pension for financial support.

More than 50% of married women can expect to outlive their husbands. When a woman is widowed she usually receives nothing at all from her husband's employer-sponsored pension plan, and only reduced benefits from the C/QPP. This is not the case for a husband, who in the event of his wife's death, normally continues to draw the same pension as before. The replacement income for a woman on the death of her spouse is less than 30 percent of the couple's previous income. If a widow remarries, whatever benefits she might have are almost always discontinued.

In the event of divorce, the C/QPP provide for equal splitting of the spouses' pension credits earned while they lived together. However, since January 1978 when splitting was instituted, only about four percent of former wives applied for and received this credit. Only two provinces clearly recognize employer-sponsored pension plan credits as family assets to be divided between the spouses upon divorce. In other provinces, divorced women cannot count on income from their husband's employer-sponsored plans.

Three out of five women over 65, and four out of five over 75 are single, widowed, or divorced. Seventy percent of widows and single women aged 75 and over live in poverty. These figures reveal that, while poverty is a women's issue, it is most urgently an issue for elderly women.

Since its inception in 1973, the CACSW has been deeply concerned with the financial situation of elderly women, and has based its recommendations for pension reform on two fundamental principles:

- **All persons regardless of sex and/or marital status are equal.**
- **All senior citizens have a right to live with dignity.**

In March 1983, the CACSW made its most recent series of recommendations, reprodu[illegible] full below, in order to give a better idea of t[illegible] number and complexity of issues involved.

- ***Homemakers:*** **that homemakers be included in the C/QPP at a level no less than half the average industrial wage.**
- ***Drop-out Provisions:*** **that the child care drop-out provision be implemented immediately and that such provision be expanded to cover those who care for disabled relatives.**
- ***Survivor Benefits:*** **that all employer-sponsored pension plans provide "joint and last survivor" benefits unless both spouses agree in writing to adopt some other form of payment;**

  that it be mandatory to continue survivor's benefits after re-marriage;

  that the Pre-Retirement Survivor Benefits proposal in the "Green Paper" (*Better Pensions for Canadians*) be reviewed because the suggested "continuing benefits" are less than the current benefits, and the "bridging benefit" is inadequate.
- ***Portability:*** **that all private pension plans provide for the portability of all employee pension credits.**
- ***Vesting:*** **that employees become fully vested after two years of service with an employer. (Vesting means acquiring the right to the contribution the employer has made on her behalf.)**
- ***Locking-in:*** **that employee and employer contributions be locked-in after plans are vested.**
- ***Coverage:*** **that full-time and part-time employees with one year of service be required to participate in an employer-sponsored pension plan;**

  that all employers be required to provide a pension plan for employees.
- ***Removal of Sex Discrimination in Pension Benefits:*** **that unisex mortality tables be used to calculate pensions and pension options.**

- ***Equal Treatment of Spouses:*** **that the equal splitting of C/QPP credits between spouses on divorce or after a three-year separation be mandatory, automatic and not subject to renunciation;**

  that in on-going marriages the equal splitting of C/QPP credits be mandatory and automatic between spouses when the younger spouse reaches the age of 65;

  that the equal splitting of employer-sponsored pension plan credits between spouses on divorce or after three years' separation be mandatory, automatic and used to provide pension income only.
- ***Expansion of the C/QPP:*** **that the C/QPP be expanded over the next ten years to give benefits equal to 50% of earnings up to the average industrial wage.**
- ***Registered Pension Account:*** **the CACSW endorses the concept of a Registered Pension Account; and recommends that a spousal option be an integral part of any Registered Pension Account System.**
- ***Protection from Inflation:*** **that pension legislation be amended to protect the credits/benefits of all employees and all pensioners from inflation through the re-investment of the interest earned by the pension fund.**
- ***Disclosure:*** **that pension plan sponsors be required to provide an annual statement to all participants and to all spouses where applicable, showing the financial status of the plan and the employee's accrued benefits.**
- ***Farm Women:*** **that the Parliamentary Task Force on Pension Reform examine the particular economic plight of farm women with regard to pensions.**
- ***Immigrant Women:*** **that the federal government guarantee the equivalent of a full OAS/GIS pension to all low-income senior citizens who have resided in Canada for ten years or more, in order to redress the injustice inherent in the July 1977 rules requiring forty years of residence in Canada to qualify for a full OAS/GIS pension.**

- ***Poverty in Old Age:*** **that the federal government increase the Guaranteed Income Supplement as soon as possible to ensure an adequate income to all Canadian senior citizens.**

Of the foregoing recommendations, only two have been partially implemented. In May 1975 the CACSW had recommended the splitting of C/QPP credits between spouses on divorce. This provision came into effect in Quebec on December 31, 1976, and in Ontario on January 1, 1978. Recognizing that the splitting of credits is a minimal solution, leaving both spouses with inadequate pensions, the CACSW has since expanded its recommendation on C/QPP credit splitting, by including a three-year separation period and stipulating that credit splitting be mandatory, automatic and not subject to renunciation (see above).

The other recommendation that has now been implemented is the child care drop-out provision (see above), which allows time spent at home raising children under the age of seven to be excluded from calculations of average lifetime earnings. This amendment was adopted by the federal government in 1977. It could not be implemented however, until Ontario agreed to support it, since with more than one-third of the population of Canada Ontario has the right of veto. Five years later, on May 10, 1983, the Ontario government dropped its veto on this provision, clearing the way for national implementation. In the Quebec Pension Plan the drop-out provision came into force in 1977.

In the "Green Paper", a report released in December 1982, entitled *Better Pensions for Canadians*, the Government of Canada put forward for discussion and debate a number of proposals for pension reform. These proposals were referred to the Parliamentary Task Force on Pension Reform, whose members have been conducting public consultations and hearings across Canada throughout the past year. The Task Force will report its findings and recommendations to Parliament by the end of 1983.

The extent to which the Task Force Committee supports the CACSW's recommendations will be revealed in the Committee's report. If the Committee's recommendations are deemed inadequate, the Council must continue to pressure vigorously to ensure that the final amendments to the retirement income system will sufficiently improve the economic outlook for women in their retirement years.

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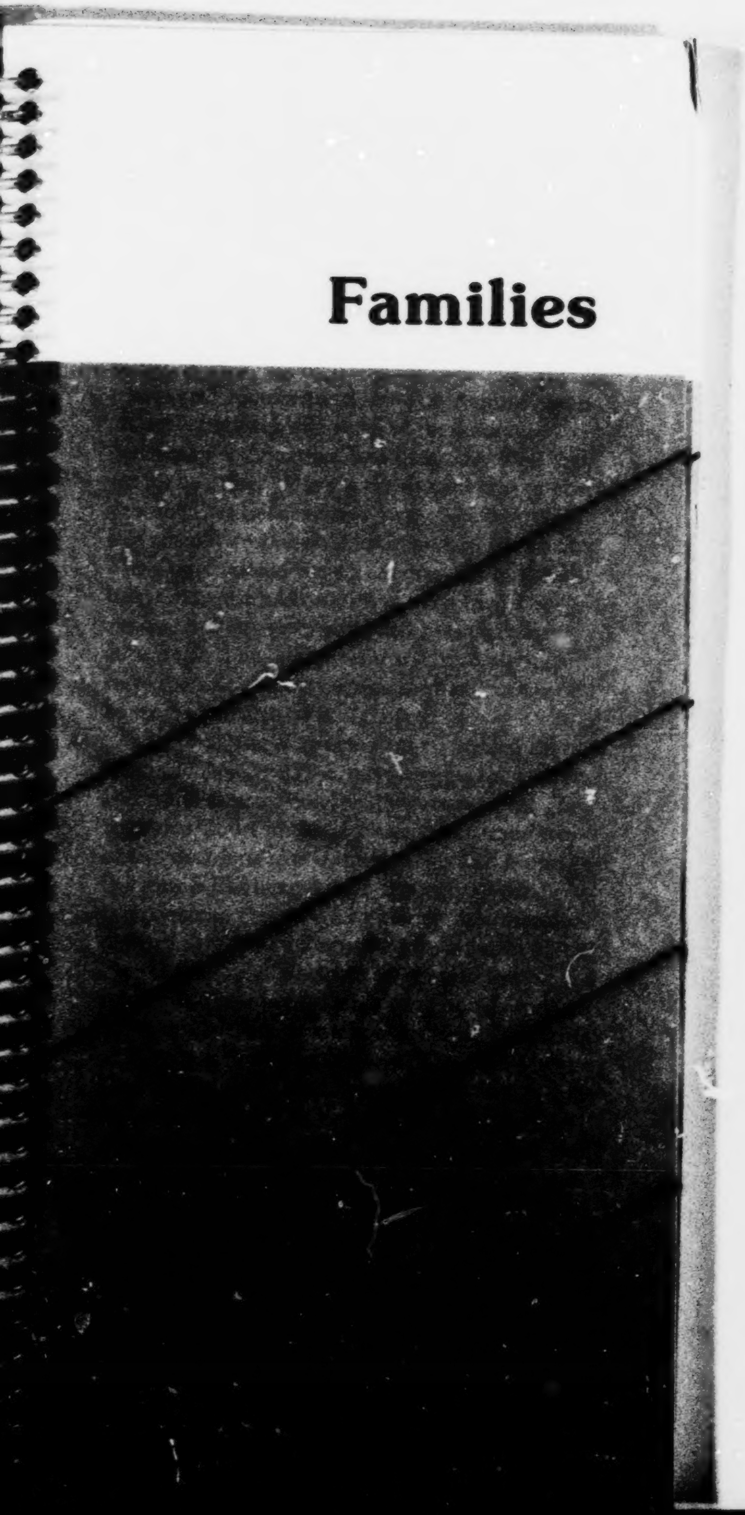
See Also

Matrimonial Property
Divorce, Support and Custody
Public Service



Families

Marriage, Divorce and Children

In 1973, the Supreme Court of Canada ruled that Irene Murdoch was not entitled to any share of the family farm when her marriage broke up. Ms. Murdoch had worked for 25 years on the farm: "haying, raking, swathing, moving, driving trucks and tractors and teams, quietening horses, taking cattle back and forth to the reserve, dehorning, vaccinating, branding, anything that was to be done." During the five months of every year that her husband was away, Ms. Murdoch was entirely responsible for operating the farm. The Court upheld the earlier decision of a trial judge, that she had only done what might be expected of any farm wife, and that the assets accumulated during the course of the marriage were the sole property of the husband in whose name the property was registered.

In 1982, the Supreme Court awarded Barbara Leatherdale only 25% of investments the couple had made as provision for their retirement. The Supreme Court in this decision overturned two earlier decisions. An Ontario Court had found that the couple had been a team throughout the marriage and that Ms. Leatherdale was therefore entitled to 50% of a Registered Retirement Savings Plan (RRSP) and stocks. A later appeal court had ruled that these investments were non-family assets under Ontario law and that Ms. Leatherdale was entitled to *no* part of them. The final Supreme Court decision awarded her a quarter share of the investments based on her paid work outside the home. The fact that she had also raised their child and kept the home throughout the marriage was not recognized as a contribution to the couple's shareable assets.

These two cases give an idea of the nature of the problems women face on the breakdown of their marriages. The ambiguity inherent in both divorce and property legislation leads to great uncertainty as to the position in which a divorced woman may ultimately find herself. Public outcry following the Murdoch decision led to all provinces reforming their own legislation in the 1970s. However, judges interpreting the laws can still base their decisions on sexist assumptions about the relative value of paid and unpaid work, as in the Leatherdale case. Even a shared understanding between the spouses that marriage is an equal partnership is no protection against these discriminatory judgements.

Matrimonial Property

In 1973, the CACSW protested the Murdoch decision and recommended that:

- **all women's organizations across Canada make representations to their provincial or territorial governments that legislation be passed to protect the property rights of married women in their province or territory.**

The CACSW pursued this issue and published *A Definition of Equity in Marriage* in 1976. This statement outlined the two principles to be reflected in all legislation relating to marriage:

- **equality between the spouses, and marriage as an interdependent partnership of shared responsibilities.**

Family legislation should be judged according to its support of these principles, and by its recognition of the value of unpaid work within the family and the right of both spouses during and after marriage to an equal share of securities built up for the future.

In 1978, the CACSW reiterated its demands, criticizing several provinces then in the process of reforming their matrimonial property laws for not fully incorporating the above principles. In the process of monitoring the progress of family law reform, the CACSW published reports in 1978, 1979 and 1982.

All provinces now have laws providing for an equal division of *some* assets on marriage breakdown. However, what is deemed a shareable asset still varies from one jurisdiction to another. Since 1970 Quebec has had a matrimonial regime calling for equal sharing of property on termination of a marriage; however, rights to a future employer-sponsored pension plan are excluded. Most other provinces exclude pension rights *and* business assets or savings of all kinds. Many provinces do not have legislation providing for the sharing of assets on the death of one of the spouses, with the result that widows may end up with a smaller share of family assets than their divorced or separated counterparts. In no jurisdiction is the equal sharing of property *during* marriage provided for, although some prohibit squandering of family assets or selling the marital home without both spouses' approval. Finally, even in provinces whose legislation includes an equitable division of property, judges retain the discretionary power in individual cases to decide whether equal sharing is "justified".

A great deal of sustained political pressure is still needed before the equal partnership of women in marriage is fully recognized and protected in the laws of this land.

Divorce, support and custody

Prior to the introduction of the federal Divorce Act in 1968, divorce was difficult to obtain even though marital breakdown due to separation or desertion was common. Today more than 40% of marriages end in divorce. Getting a divorce is easier now, but is still beset by unnecessary delays, overly restrictive conditions and uncertainty in matters of custody and support.

As early as 1973, the CACSW recommended that:

- **marriage breakdown be the sole criterion for divorce, and be established by a one-year separation of the spouses, or a waiting period of one year following an application for divorce by either spouse.**

The CACSW reiterated this recommendation in 1976, adding that:

- **where both spouses jointly request or consent to divorce, and where there are no questions of custody, maintenance, division of property, or reconciliation, no waiting or separation period be required.**

The Divorce Act has not been amended since it was introduced. The grounds for divorce remain the same: separation of three years and adultery are the most commonly-used grounds, but a variety of other grounds, all based on the fault of one spouse, are also recognized. Although in practice spouses often agree to part amicably, required divorce procedures force them to take an adversarial role in relation to each other. Uncontested divorces can take as long as six months to complete; contested cases can take more than a year.

Getting the divorce itself is still only a part of the problem; questions of custody and support of any children and of the spouses' obligations to support each other remain unresolved.

In 1976 the CACSW recommended that:

- **courts grant a divorce only when they are satisfied that the parties have reached an equitable property settlement, that adequate maintenance, based on financial abilities is provided for the spouse with custody of the children, and that satisfactory arrangements are made for the emotional and physical development of the children; and that the courts be empowered to include cost-of-living increases in maintenance awarded to spouses and/or children.**

Property division is exclusively under provincial jurisdiction (see previous section). Child custody and maintenance are awarded under federal laws if the decision is part of an actual or pending divorce action. If custody must be established or support is needed during a period of separation, provincial laws apply and the federal divorce court is generally reluctant to alter these earlier orders.

When parents cannot agree as to custody or child support, courts have developed "the best interests of the child" as a test for awarding custody. Criteria for custody awards are based on precedents established by jurisprudence. The stability of environment offered by either parent, her or his relative financial means, the child's emotional attachments, keeping the children together, and other relevant considerations go into the decision. The parent who is not awarded custody will usually be able to visit the child.

Under federal and most provincial laws, child support is awarded to the spouse with custody of the child, based on the parents' relative needs and means. Support for a spouse, though, is a less straightforward matter.

Women are awarded custody in 85% of divorces involving children. It is still primarily women, therefore, who need support for themselves and their children, and men who pay (or don't pay) maintenance for both. Courts are not required to index support payments to the cost of living, although judges have the (rarely exercised) discretion to do so. Criteria for establishing a divorcing couple's rights and obligations have been developed by precedent; recent trends in determining awards are double-edged.

The Divorce Act requires that conduct be considered in awarding support. In practice, the needs and means of both spouses are now taken more into account than their (mis)conduct. The expectation that both spouses should support themselves has come into play in jurisdictions. This expectation fails to take into account the social and economic position of women in our society, especially of women who have been full-time homemakers prior to divorce: their lack of training, the difficulty in entering or re-entering the labour force after working in the home, and the low pay of occupations open to women. Divorce leaves 43% of one-parent families headed by women living in poverty. Their general economic conditions are worsened by inadequate recognition of work in the home in dividing property and awarding support. Another major factor in the poverty of these women is that a large majority of Canadian husbands default on their court-ordered support payments. The last available figure on support orders in arrears is from 1976. It shows 75% of husbands in default.

Responding to this serious inadequacy in enforcement of support orders, the CACSW recommended in 1977, in the context of formulating proposals for a Unified Family Court, that:

- **a Maintenance Award Fund be established into which payments ordered for support of an estranged family would be made and out of which such payments to the family would be drawn; and that a central registry of all court decisions for all jurisdictions in Canada having regard to maintenance and/or custody of children of separated or divorced parents be established and maintained by the federal government.**

Neither of these measures has been implemented. Although a federal support order is theoretically enforceable across the country, collection of support payments is a provincial responsibility. If the ex-spouses live in different provinces, a defaulting husband can almost never be traced and compelled to pay up. Some provinces are better than others at enforcing orders internally, but in almost all provinces the onus is on the woman to set collection procedures in motion when her cheques don't come. A federal/provincial committee studying the problem of collection of maintenance payments has recently proposed changes to the law which would somewhat improve the interprovincial enforcement, if adopted.

To guarantee better protection of children after divorce or separation, the CACSW in 1978 recommended that:

- **abduction of a child by a parent or guardian contrary to a court order for custody be made a criminal offence.**

Effective January 4, 1983, it is an offence under the Criminal Code for a non-custodial parent to entice or steal a child under 14 away from the parent with legal custody. This measure should help with enforcement of custody orders and deter parents from child-snatching.

The constitutional debate sparked a controversy over whether jurisdiction over divorce should remain with the federal government or be transferred to the provinces. In response the CACSW recommended that:

- **the federal government retain jurisdiction over divorce to ensure uniformity across the country.**

This issue seems to have been laid to rest for the immediate future; the federal government still has jurisdiction and no Canadian "Reno" will emerge as long as this remains the case.

The Divorce Act fails in serious ways to respond to the needs of today's families and individuals, and women and children are the inevitable losers. The CACSW applauds the intention of the federal government, announced in 1983, to reform the Divorce Act in the immediate future. The Minister of Justice is reported to be considering changing the grounds for divorce, the length of separation required, and enforcement mechanisms along lines consistent with the CACSW's recommendations. The CACSW will, like other women's groups, be monitoring and commenting on the progress of these legislative changes with deep concern and interest.

Family Court

One solution to the inconsistencies and jurisdictional problems in Canadian family law would be the creation of Unified Family Courts with comprehensive and integrated jurisdiction over all matrimonial and family deliberations. In 1974 and 1975, the CACSW proposed such a change in the structure of legal procedures relating to families. Salient features of the proposed system included recommendations that:

- **federal and provincial governments co-operate in the development and funding of a Unified Family Court;**
- **judges in such a court be federally appointed and specially trained in family law;**
- **cases involving juveniles be included under the authority of such a court, along with divorce, separation, maintenance and the division of matrimonial property;**
- **proceedings be closed to the general public except with the consent of all parties involved, and that the press or other public bodies attending proceedings not publish names or other identification of the parties;**
- **the adversarial system not be extended into the Unified Family Courts;**
- **professional support staff be provided to work with the judges and to provide psycho-social counselling services to families and individuals.**

During the late 1970s, the federal government subsidized Unified Family Court pilot projects in four provinces: Ontario, Newfoundland, Saskatchewan and New Brunswick. Certain other provinces have unified their own family courts, at least administratively or geographically. The federally-supported projects focussed on unification of jurisdiction and on the provision of conciliation services. These projects were granted funds for a period of three years, after which time provinces would take over the financial responsibility if they decided to continue the program. All four provinces involved in the project have chosen to continue their unified courts, and Manitoba is in the process of developing a unified court of its own.

Since family laws vary from one province to another, the particular forms of these courts also vary considerably. Not all courts incorporate cases involving juveniles. Whether or not proceedings are open to the general public is usually at the discretion of the judge presiding.

The atmosphere in the Unified Family Courts may be more humane than in other courts due to the focus on conciliation and negotiation. Conciliation and mediation services were associated with all pilot projects, although such services may have been provided by existing agencies rather than specifically created for the courts. The adversarial system persists to a greater or lesser extent, depending on the degree of contestation in any particular proceeding.

The federal/provincial division of legislative powers and responsibilities in matters concerning families has also remained unchanged. For this reason, judges appointed to the Unified Family Courts are generally appointed jointly by the federal and provincial governments. This empowers them to preside over proceedings at both levels of the judicial system. Judges who were appointed to the pilot projects were chosen on the basis of their interest and knowledge in family law, but no special training was required.

The existence of these few Unified Family Courts can be seen to be of benefit to those families and individuals who have access to them. Any more universally beneficial effects will not be apparent until the legal framework surrounding families has been reconceptualized and standardized across the country, and unless the social and economic positions of women are centrally considered in making these changes.

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See Also

Taxation
Pensions
Constitution

Battered Women

At least one in ten Canadian women is beaten by the man with whom she lives — 500,000 women are battered each year. The beatings are not isolated incidents; women are battered repeatedly and left with bruises, cuts, burns and broken bones. Some are permanently disabled; some are killed. The response of our legal, social, medical and welfare institutions has been to ignore the problem, to blame the women, and to deny them protection and support. Since many of these women are economically dependent on the man who abuses them, they are left to choose between a life of terror and a life of poverty for themselves and, often their children.

Since the first transition house for battered women was opened in Canada in 1972, these shelters have provided almost the only reliable help for battered women and their children. The shelters provide information about legal and social services, and give temporary homes to those who need them. Transition houses have been established by groups of women whose commitment to providing these essential services has kept the shelters open in the face of scarce and unpredictable funding from governments and social agencies. They are run by women working long hours for low pay, and they rely heavily on volunteer help. Even with this dedicated work, some shelters finally fold for lack of funds. Their numbers are pitifully few in relation to the need for them; in 1983 there are about 155 across the country. In 1980, approximately 45% of the Canadian population lived in areas where no such services were within commuting distance. Rural and northern women, already the most geographically isolated, have the least access to these houses. Those houses that do exist cannot accommodate all of the women who come to them for help.

Wife Battering in Canada: The Vicious Circle, by Linda MacLeod, was published by the

CACSW in 1980. This study focuses on the social system which perpetuates and accepts wife battering throughout our society, and reveals the social and institutional barriers facing women who are battered. The CACSW accompanied the release of this book with recommendations for specific action by the federal government in four priority areas:

- ***The immediate need:* making funds available for the creation and operation of transition houses, for support and follow-up services, and for income support programs for battered women.**

Funding for transition houses remains insufficient. Most houses still rely on a combination of provincial/local money, (provided on a *per diem* basis to cover room and board for each woman or child who is eligible for welfare), short-term federal grants, and charitable donations.

The costs of welfare are shared between the provinces and the federal government, but the provinces determine which services will be funded and who is eligible for support. In general, provincial governments do not see shelters for battered women as an essential service but as a welfare measure. Strict eligibility criteria are applied to each woman who claims income assistance and on whose behalf transition houses claim the costs of room and board. Welfare eligibility criteria exclude many women and effectively deny them access to transition houses, which need the *per diem* payments to survive. Moreover, welfare sources frequently restrict the length of time a woman may stay in a house, and also attach other strings to the use of funds provided.

In some provinces, the situation is worse than in others. Québec and British Columbia have both had a good record in supporting transition houses. However, the cuts in British Columbia's social service spending, proposed in the summer of 1983, could mean that those houses will lose essential funding. Ontario, with the greatest number of transition houses, provides almost no financial support. Manitoba set up a new *volunteer* service in 1983, a 24-hour crisis line, a network of safe houses and programs for batterers, with joint funding from the federal government.

At the federal level, there is no specific program of support for transition houses, although there is 50-50 cost-sharing through the Canada Assistance Plan. Several different departments (e.g., Department of Justice, CEIC, Secretary of State Women's Program, Health and Welfare Canada) do provide various short-term grants, which end after a specified period, either leaving the houses to search for alternate funds, or to re-apply year after year. The Canada Mortgage and Housing Corporation (CMHC) provides low interest mortgages to a number of transition houses, and has recently instituted a program of financial assistance in building, buying or renovating non-profit housing, including transition houses.

The overall lack of funding affects support and follow-up services too. Many transition houses do not have the funds or staff to offer programs for children, who are as much in need of care and counselling as their battered mothers even if they have not been beaten themselves. In 1982, in all of Canada there were three houses where women and their children could go after the few days or weeks allowed in a transition house.

Governments in Canada have not opened their pockets to help battered women, whose immediate needs for shelter and support are unmet. Some action is, however, visible in other areas.

- ***Prevention of the problem:* promoting public education and awareness, and training professionals to provide services for battered women.**

Throughout the 1970s, the work done by women to publicize the issue of wife battering went almost unnoticed by those in power. It was not until 1981 that a Parliamentary committee was directed to study and draft recommendations on "family violence", including wife battering. The laughter of male MPs when the committee's report was introduced in the House of Commons in May 1982 went far to focus public attention and outrage on the issue. In October 1982, a brochure on wife battering was sent with family allowances to 3,500,000 women (a measure that the CACSW had recommended be taken before June 1980). In June 1983 a federal/provincial committee was set up to compile a report on the steps taken by both levels of government and to propose new approaches to dealing with wife-battering.

It is possible that increased public awareness may also affect awareness within the helping professions, but few concerted efforts have been made to bring this about. One recent trend is an increase in counselling services for men who batter, as such treatment is an essential part of prevention.

- ***Improvements to the legal system:* ensuring that wife battering is treated as a serious offence and that women are protected.**

The inadequacies of the legal system with respect to wife battering exist at all levels: legislation, administration and enforcement. In most jurisdictions, a woman has had to prosecute her abusive husband herself, since the police would almost never arrest or charge a wife batterer. Men were found guilty in less than one percent of the cases of wife battering, partly because a woman's uncorroborated testimony to the battering was not considered sufficient; eye-witnesses to the assault were preferred. Until 1983, it was not an offence for a husband to sexually assault his wife. Although a woman can obtain various orders and injunctions forbidding her husband from harming her, these orders are difficult and time-consuming to obtain, and difficult to enforce. Few battered women are ever informed by police of other avenues, however limited, that are open to them.

Some of this has changed. In July 1983, three provinces (Manitoba, Saskatchewan and Ontario) followed the federal government's lead by ordering their police forces to press charges against wife batterers, and instructed their Attorneys-General not to drop charges without good reason. Women were thereby relieved of the burden of laying charges themselves. The RCMP and some other police forces now receive training in "family violence intervention". The Criminal Code was amended in 1982, by defining police powers of arrest in battering situations more clearly and by removing the immunity from prosecution of husbands who rape their wives (see Sexual Offences).

- ***Definition of the problem:* developing specific programs and policies to deal with wife battering as a priority area in its own right.**

The federal government's response to wife battering has so far been in the form of isolated efforts, half measures and further study. The creation in 1982 of the National Clearinghouse on Family Violence, to collect information and publicize the issue, added an important resource for those who address the plight of battered women, but once again their particular situation was submerged in the general category of "family violence". Once again the fact that women are overwhelmingly the targets of this violence was obscured. The violence continues unabated.

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See Also

Volunteer Work

Legal Status and Legal Issues

The Constitution

Canadian women scored a crucial victory in 1981 when their intensive lobbying efforts succeeded in getting equality rights for women entrenched in the new Constitution. From all that is described elsewhere in this report, it is obvious that women's basic rights have not been adequately protected under existing laws. We have yet to see, however, how the legislative bodies and courts of Canada will actually apply these constitutional guarantees for women.

In 1980, more than 20 women's groups, including the CACSW, presented their demands to the Special Committee on the Constitution. The CACSW made detailed proposals for improvements in the wording of the Charter of Rights and Freedoms to secure equality rights for all women. Only some of these changes were incorporated at that time.

In February 1981, several hundred women attended a conference in Ottawa on Women and the Constitution. The conference was organized on very short notice, by a coalition of women's voluntary groups, after the CACSW had postponed its own planned conference; however, the CACSW provided its research papers to conference participants. At that time, thousands of women responded to the government's indifference to their rights with a massive letter and telegram campaign, and the organizers of the conference carried its recommendations to federal politicians in a concentrated lobbying drive. The object and result of all this activity was the inclusion of Section 28 in the Charter:

> **"*28.* Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons."**

Subsequently, the federal government and the provinces agreed to include an "override" clause, allowing governments to waive the rights and freedoms guaranteed in the Charter at their discretion. When it became apparent that Section 28 was intended to be subject to this override, outraged women responded instantly with an even more intense lobby of federal and provincial governments, and in record time gathered statements from all provincial Premiers that Section 28 would *not* be waived.

The grassroots mobilization around the Charter demonstrated how powerful women can be; the fact that the equality of women and men is explicitly guaranteed in the Canadian Constitution is directly and solely attributable to the anger and action of women themselves. However, the constitutional battles are by no means over. Many uncertainties remain and will demand the continued organized vigilance of women.

It is unclear at this time whether the blatant legislative discrimination against native women will be effectively redressed through the Charter (see next section). Furthermore, it is not until 1985 that Section 15, the equality rights section which also protects affirmative action programs, will come into effect in Canada.

Section 15 states:

> **"*15(1)* Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical handicap.**
> **_15(2)_ Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."**

For a discussion of the importance of the wording of these clauses, especially the statement of equality "before and under the law" and "equal protection and equal benefit of the law", see the 1980 CACSW brief, *Women, Human Rights and the Constitution.*

The three-year waiting period before these clauses come into force allows federal and provincial governments to amend legislation that would be in conflict with this section of the Charter. Women are understandably reluctant to entrust this process to the same governments responsible for existing discriminatory laws, and many groups across the country are monitoring the process and conducting their own audits of the legislation. Women's organizations are also involved in public education efforts to ensure that women are informed about their status under the Charter.

After Section 15 comes into effect, any laws that remain in conflict with it will have to be challenged in the courts — a lengthy and expensive process. Prior to the enactment of the Constitution, judges were empowered only to interpret legislation; now, for the first time in Canada, the courts will have the power to challenge the inequalities built into legislation, and to strike down discriminatory laws. Given the record of courts so far in upholding women's rights in society (see Native Women, Unemployment Insurance, and Marriage and Divorce, for a few key examples), their new, determining role is not a reassuring prospect. Women lawyers in particular are developing strategies for pursuing successful Charter cases through the courts to establish judicial precedent that will concretize women's equal status. The CACSW is involved in this process and with the Charter of Rights Educational Fund co-sponsored a major conference in February 1983, to identify areas of discrimination that need to be tested under the Charter. In addition, the CACSW plans to release a study on the concept of a legal defense fund to subsidize the costs of litigation for crucial test cases.

Constitutional issues are arguably the most important of all those facing women today. Theoretically, most if not all of the injustices identified elsewhere in this report could be eliminated through the process of reform and litigation that has begun. But it is unlikely to happen immediately, or even soon; the process will require sustained pressure and action from women who are affected by it. That is, by all of us.

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Native Women

Native women in Canada are subjected to three levels of discrimination. They share the living conditions of the majority of Canadian women in addition to the socio-economic conditions of native people, which remain well below those of the Canadian population as a whole. Furthermore, native women have been subjected since 1869 to the Indian Act, the last version of which (1951) reaffirms principles that discriminate on the basis of sex.

This Act ensures maintenance of a particular status for Canada's original people. For women of Indian ancestry, however, it constitutes a double-edged sword. For example, under paragraph 12(1)(*b*) of the Act, an Indian woman who marries a non-Indian is deprived of her Indian status and rights, as are her future children, who will be categorized as Metis and non-status Indians. The same does not apply to men from her reserve or band who marry non-Indians; in fact, non-Indian women who marry Indian men acquire Indian status, as do their children. Section 14 decrees that an Indian woman belongs to her husband's band after marriage and no longer to her original band. Subsection 12(2) provides that the inclusion on a band list of the name of an illegitimate child may be contested and that, if it is judged that the father was not an Indian, the child does not have the right to be registered.

Without doubt, the Act attributes Indian status through the father and the male line. *Indian Women and the Law in Canada: Citizens Minus,* a 1979 CACSW publication, notes that such legislation goes against several systems of native heritage, whereby children belong to their mother's clans. In some isolated cases, observance of these customs diminishes the adverse effects of the Act on women. However, at the other extreme, the Act is strictly implemented, and women are expelled from the reserve and unable to return after divorce or widowhood. Financial and/or identity problems for the mother as well as the children are frequently the result of this strict observance of a discriminatory law. It was in contesting the Act, and more specifically paragraph 12(1)(*b*), that native women's groups and associations supporting them became mobilized in 1970.

In 1973, two landmark cases concerning the rights of native women in Canada came before the Supreme Court and were heard together. Jeannette Corbière-Lavell was contesting the deletion of her name from the band list upon her marriage to a non-Indian. Yvonne Bédard, who had also lost her Indian status, was appealing against the Six Nations Council's having evicted her from the reserve, despite the fact that she was separated from her husband and living with her children in a home that had been willed to her by her mother. The Supreme Court dismissed these cases, bringing to light two important aspects of the situation of native women. Despite the discriminatory character of paragraph 12(1)(*b*) of the Indian Act, it was not seen to infringe on the Canadian Bill of Rights according to the legal interpretation presented. Furthermore, even a partial amendment of the Indian Act, removing paragraph 12(1)(*b*), raised too many problems, according to national native associations composed mostly of men. In their opinion, the Indian Act should be rethought in its entirety, not section by section. The question of Indian citizenship, of who is Indian and who is not, led to a much larger consideration of the political autonomy of the bands and the concept of ancestral rights.

National native women's groups like Indian Rights for Indian Women and the Native Women's Association of Canada have made their point of view widely known and been able to rouse great sympathy for their cause. They have done so partly by seeking the continuing support of organizations whose mandate is to improve the situation of Canadian women: organizations such as the CACSW, the National Action Committee on the Status of Women, and many others. In 1980, female members of Parliament arrived at a consensus across party lines, and exhorted the Canadian government and Indian bands to treat native women equally and to pass the required amendment to the Act.

Since 1973, the CACSW has taken a stand and repeated its demands to the federal government concerning the systematic withdrawal of discriminatory sections of the Indian Act.

The CACSW recommended in 1973, among other things, that:

- **a stay of eviction of Indian women from reserves be granted immediately;**
- **paragraph (12(1)(*b*), subsection 12(2) and section 14 of the Indian Act be deleted.**

The CACSW also affirmed that the effectiveness of the Bill of Rights had been threatened by the courts, especially by the Supreme Court decision in the Lavell-Bédard case, and reaffirmed the need to establish, as soon as possible, a federal human rights commission.

In June 1974, the CACSW declared that the federal government "was not living up to the standard established in the Universal Declaration on Human Rights, and was breaking the spirit of the United Nations Convention on the Nationality of Married Women, signed by Canada, through its neglect in amending the Indian Act which permits discrimination against married women."

In addition, in 1980, the CACSW deplored the fact that Sandra Lovelace, a Maliseet Indian from New Brunswick, had to appeal to the United Nations Human Rights Committee to make it known that Canada's Indian Act was discriminatory. In 1981, Canada received a reprimand from the UN Human Rights Committee for not respecting the Universal Declaration to which it is a signatory.

At the request of Indian Rights for Indian Women, the CACSW published Kathleen Jamieson's work entitled, *Indian Women and the Law in Canada: Citizens Minus* in 1978. The spirit of the 1869 Act is described, as is its evolution, the intentions of the legislators, and the reactions of national Indian groups to women's movements. This work represents an important analysis of the long-term effects of implementation of the Act with reference to women of Indian descent and their children.

The CACSW has supported native women's groups in their repeated attempts to participate as equal partners with the National Indian Brotherhood in the process initiated in 1975 to amend the Indian Act. In 1983, the groups have not yet been recognized.

Under pressure to act, and undoubtedly affected by the reprimand of the UN, the Canadian government has recently appeared to be more sensitive to demands for deletion of paragraphs 12(1)(*b*) and 12(1)(*a*)(iv). In July 1981, the Minister of Indian and Northern Affairs invited all the bands to request non-retroactive exemption from application of these paragraphs. By July 1983, only 86 of the 576 bands had taken advantage of this right with reference to paragraph 12(1)(*b*).

Native women's groups have been denied the right to make formal presentations to the Standing Committee on Indian Affairs and Northern Development, but were allowed to air their complaints about the Act and the amendment process to the Sub-committee on Indian Women and the Indian Act. The Sub-committee made a series of recommendations to the Minister of Indian and Northern Affairs in September 1982.

The CACSW shortly accepted the Sub-committee's very explicit recommendations as its own. Among other things, it was recommended:

- **that all discriminatory provisions be deleted from sections 11, 12 and 14 and that section 10 and subsection 12(2) be repealed;**
- **that amendments be made to the Act to permit Indian women and their first-generation children who lost status under paragraph 12(1)(*b*) to regain their status immediately upon application, and to require bands to re-admit such women and children to band membership after a period of twelve months from the date of application. Regardless of whether the mother is still living, these children should be placed on the band list of the mother's band. The Sub-committee also drew up certain recommendations which favour control of membership by bands, because it encourages all bands to continue or to undertake to develop rules, codes and criteria in accord with international standards;**
- **that Parliament appropriate sufficient funds to provide those persons who are reinstated all services and programs currently available to status Indians: transitional funds and other resources including lands, economic development, etc., where necessary; and**
- **that funding be provided by the federal government for a study in consultation with aboriginal peoples, to be completed within one year, on the number of non-status Indian women affected by the discriminatory provisions of the Indian Act and on the number of women whose status would be restored if requested.**

In addition, in December 1982, the House of Commons established a Special Committee on Indian Self-government whose mandate is to make recommendations toward the drafting of new legislation for the Indians of Canada. Native women have already made their presentations to it. The new Canadian Constitution should also be mentioned as an important event for native women, because it provides for entrenchment of native rights and equality of the sexes in all legislation. Although paragraph 12(1)(*b*) of the Indian Act will not become unconstitutional until 1985, when Section 15 of the Charter of Rights and Freedoms will come into effect, the government intends to delete discriminatory sections of the Indian Act before then.

As for the definition and elaboration of aboriginal rights, a consultative process will be followed at four constitutional conferences on the subject: one was already held in March 1983. At this conference, proposals for the amendment of the Constitution were developed, to include the following: "ancestral treaty rights, land claims, or rights obtained in this way [are] guaranteed to people of both sexes."

According to certain native groups, this text would have been reworded without their consent so as to become more restrictive. In fact, non-status Indian women and Metis run a strong risk of not benefiting from this amendment. As non-status native people, the sexual equality in question here would not apply to them. Many points have yet to be clarified before the Senate ratifies the terms of this agreement.

It should be added that the few native women's groups who participated in the conference in March were able to do so only because certain provincial government delegations and the Native Council of Canada gave them seats, since they are not officially recognized at these types of meetings.

Obviously, important questions remain despite the prospects for change:

- To what degree will the Canadian Parliament take into account the recommendations of the Sub-committee on Indian Women and the Indian Act?
- Will the recovery of rights for women and children be recognized, and on what terms?

- What will aboriginal rights be and how will they be defined in the Charter of Rights and Freedoms?

If paragraph 12(1)(*b*) and other discriminatory provisions are removed from the Act shortly, will the impact be retroactive and explicit enough that the women affected will not have to beg their status from their bands? Failing that, the women will have only scored a small victory and the CACSW's recommendations will have been only partially heard. Even if women recover their rights, for many the task will not be fully accomplished. They will have to work to be reinstated in their own communities and to win over those who resist. Much has yet to be done before native women can be assured of a place in the decision making and activities of their own communities across the country.

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See Also
Constitution

Sexual Offences

In 1981, the CACSW *Report on Sexual Assault in Canada* by Dianne Kinnon estimated that as many as 115,550 women and men are victims of various forms of sexual assault each year in Canada — the vast majority of these victims being women. One of four women in Canada is assaulted sexually at some time in her life.

Other figures reported in the same study demonstrate that the woman who is sexually assaulted faces official indifference and inaction strikingly similar to that faced by battered women: laws are not enforced, the men making violent assaults are not punished, and the network of support services for the victims are provided by other women working with little funding or recognition. For example, of the 3,388 rapes reported in 1979, only 67.6% were classified by police as "founded" (i.e., the police believed a crime had been committed). A report of rape that is deemed by police to be "unfounded" (i.e., a false or unprovable report) is not prosecuted. Police have only found approximately six percent of other crimes against the person to be unfounded. Only two percent of the men who *were* charged with rape were convicted; the average sentence was two to three years.

Sexual assault by men against women is the reflection of a generalized hostility towards and brutalization of women in our society. It is not a sexual act, but an act of violent aggression. It is a devastating experience for the victim. The estimated nine women in ten who do not report assaults may well fear the court process in which their own conduct and character are just as likely to be in question as that of their attackers. They may fear reprisals if the attacker is someone they know, or who holds power over them (e.g., a relative or an employer). They may accept the myth that they themselves are to blame for the attacks. In any case, by far the most reliable support is to be found in one of the 40 or so struggling rape crisis centres across the country. Needless to say, not all women have access to these services, although crisis phone-in lines do exist and are somewhat more accessible. It is only the constant work by women to establish and obtain funding for rape crisis centres that has resulted in the tenuous existence of these services.

The women's movement has engaged in a sustained effort to speak out on the roots, extent and effects of sexual assault and to change the sexist attitudes leading to its prevalence and acceptance. Changes to the Criminal Code have also been a central target of these efforts, efforts in which the CACSW has participated from the outset.

The federal government made some changes to the laws on rape and other forms of sexual assault in 1975-76. These changes were seen by women to be inadequate in scope and force. The immediate reaction of the CACSW was to recommend further changes that would be significant. The CACSW repeated and refined its recommendations again in 1977, 1978, 1979, 1980 and 1981. The government over these years introduced three subsequent bills to amend the Criminal Code, each a little more acceptable than the one before. New laws on sexual assault finally came into effect on January 4, 1983.

The major thrust of the CACSW's recommendations over these years has been in the following areas:

- ***Definition of the offence.*** **The CACSW recommended that rape and indecent assault be redefined so as to focus on the violent rather than the sexual nature of the crime; specifically, that four categories of sexual assault be created, with graduated severity of the offence and of corresponding penalties:**

sexual assault;

sexual assault while armed with a weapon;

sexual assault causing bodily harm;

sexual assault with intent to maim or endanger life.

A new three-tiered structure of sexual assault offences has replaced rape and indecent assault under the Criminal Code. The new categories are:

- Sexual assault (maximum penalty: 10 years imprisonment)
- Sexual assault with a weapon, threats to a third person, or causing bodily harm (maximum penalty: 14 years imprisonment);
- Aggravated sexual assault, involving wounding, maiming, disfiguring, or endangering life (maximum penalty: life imprisonment).

It remains to be seen, of course, whether this formulation will lead to more prosecutions and convictions, as intended.

There are other changes to the nature of the offences. Sexual assault is now located in the Criminal Code under "Offences Against the Person and Reputation" (instead of "Sexual Offences, Public Morals and Disorderly Conduct"), shifting the legal focus away from the sexual nature of the crime. A variety of sexual offences were removed from the Code (e.g., those concerning various forms of seduction and those specifying the age and/or sex of offenders and victims). However, buggery, bestiality and gross indecency remain offences, contrary to recommendations by the CACSW. All crimes of sexual assault apply equally to both sexes; previously rape could only be committed by a man against a woman and was defined as occurring only on penile penetration of her vagina. Most of these changes are consistent with the CACSW's recommendations.

- ***Rules of evidence.* The CACSW recommended the prohibition of evidence relating to the complainant's past sexual history, unless introduced as evidence by the Crown or in relation to a defense of honest mistake as to consent, and that the complainant not be required to be a witness at any hearing to determine the admissibility of such evidence.**

The recent amendments do allow discussions of a complainant's sexual history in three specific cases: if the Crown introduces it; if the accused is alleging that someone *else* assaulted the victim; if the accused alleges belief in consent on the basis that the complainant had sexual contact with more than one person on that occasion. The complainant cannot be forced to testify at the *in camera* discussion to determine the admissibility of such evidence.

In addition, the amendments explicitly state that corroboration is no longer required for a conviction for sexual assault, or for other sexual offences such as incest. The rule requiring the complainant to have made a complaint of a sexual assault immediately after the assault took place was also repealed.

- ***Consent.* The new laws continue to allow the accused to raise a defense of mistaken belief as to consent, but require that the judge first determine that there is sufficient evidence to form a defense and subsequently instruct the jury to consider whether there were reasonable grounds for the belief.**

This is an attempt to deal with the problem raised in 1980 by the Supreme Court of Canada decision in the *Pappajohn* case: that an *unreasonable* yet honest mistake as to consent could be an effective defense against a charge of rape. Whether this amendment will provide sufficient protection for victims of sexual assault has yet to be tested in the courts.

- ***Sexual assault within marriage*. The CACSW repeatedly urged the abolition of a husband's immunity from prosecution for raping his wife.**

The new law specifically states that a spouse can be charged with sexual assault. This clause was passed only after another letter and telegram campaign by women, in the last weeks of debate on the amendments. The notion that a woman is her husband's property and can be sexually abused by him at his will is no longer enshrined in our criminal law.

- ***Sexual exploitation of young people*. The CACSW recommended introducing stronger legislative protection for young people from sexual exploitation such as incest and child pornography.**

There is no change to rules on child pornography, although changes to the sections of the Criminal Code dealing with obscenity were proposed in mid-1983, and a federal committee was given the responsibility to study and make recommendations on pornography, including child pornography and prostitution (see Prostitution).

A conviction for incest no longer requires corroborative evidence. The fact that spouses can now be required to act as witnesses for many more cases involving offences against children under 14 may lead to more arrests and convictions. Abduction of a child by the parent without legal custody was also made an offence (see Divorce, Support and Custody).

- ***Public education*. The CACSW recommended that educational programs on sexual assault laws be arranged for the general public and those involved in the judicial process and law enforcement.**

Information kits and brochures have been distributed to community and law enforcement services, and to the public to a certain extent.

The recent changes outlined above constitute a giant step beyond laws that were previously in force. However, attitudes towards victims of sexual aggression and women in general have not significantly changed, as the increased availability of pornographic depictions of degradation of and violence towards women suggests. Much more must happen before women are free to live their lives without the ever-present fear of assault.

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See Also

Battered Women

Prostitution

Until 1972, prostitutes were charged under the vagrancy section of the Criminal Code, which stated that "everyone commits a vagrancy who, being a common prostitute or night walker, is found in a public place and does not, when required, give a good account of herself." This created a "status offence" of being a prostitute in a public place and was aimed solely against women.

This law, justifiably criticized for being discriminatory, was repealed in 1972 in response to a recommendation by the Royal Commission on the Status of Women and pressure from women's groups and civil rights groups. It was replaced by a soliciting law: "every person who solicits any person in a public place for the purpose of prostitution is guilty of an offence punishable on summary conviction." The intention was to eliminate the *social nuisance* aspect of prostitution, rather than prostitution itself, and to prohibit both men and women from soliciting in public, whether for the sale or purchase of sexual services.

This attempt to ensure a non-sexist application of the law did not work. That same year (1972), an Ontario court judge held that males could not be prostitutes because dictionary meanings of prostitutes only dealt with females. A 1973 decision by the British Columbia Supreme Court held that a male could be a prostitute and therefore could be found guilty of soliciting. It is worth remarking, however, that the men charged in this particular case were dressed in women's clothing, a fact which was emphasized by the judge.

The question of the identity of the person who solicited wasn't taken up until 1978. The British Columbia Court of Appeal specifically held that a prostitute's customer could not be found guilty of soliciting, but upheld the earlier decision that a male prostitute could be. The Ontario Court of Appeal overturned the 1972 decision and found that the section was broad enough to include both male prostitutes and male customers. Thus, at least in Ontario, the term "prostitution" was given a broad interpretation encompassing both the buying and selling of sex. Unfortunately, the way in which the law has been enforced since then does not reflect this decision.

Arrest figures suggest that it is still the selling and not the buying of sex which is a crime, and that it is the activities of female prostitutes which need to be prohibited. The 1978 Supreme Court decision, that soliciting had to be "pressing and persistent" to be a chargeable offence made the soliciting law very difficult to apply. As a consequence, other sections of the Criminal Code (primarily the disorderly conduct sections) have been used in an attempt to prosecute prostitutes. Some municipalities enacted by-laws and prostitution came increasingly into the media as a contentious issue.

In May 1982, the House of Commons Standing Committee on Justice and Legal Affairs was instructed to consider "all legal methods of dealing with street soliciting for the purpose of prostitution . . . as well as the various provincial and municipal laws presently in force in this regard." The committee heard testimony from a wide variety of witnesses, and received a number of submissions. Some groups asked that the present laws pertaining to prostitution-related activities be strengthened and strictly enforced, while others lobbied to have the soliciting and bawdy-house laws removed from the Criminal Code. Still others advocated waiting for the validity of the municipal by-laws to be tested before the Supreme Court of Canada.

The CACSW felt that an informed decision on soliciting could not be made within the narrow terms of reference of the Justice Committee, but that there were much broader social issues to be examined. The information available on prostitution, and in particular on the factors influencing the supply and demand of paid sexual services, is not sufficient to make immediate proposals for adequate solutions. Accordingly, in the fall of 1982 the CACSW began a study of heterosexual prostitution in Canada.

In January 1983, the Supreme Court of Canada ruled that the prostitution by-law adopted by the City of Calgary was illegal. The invalidation of municipal by-laws placed the jurisdictional responsibility back with the federal government, and in February and March the Justice Committee heard more submissions. It brought its final report to the Justice Minister in March 1983.

That same month, after studying a preliminary version of its own prostitution study, the CACSW recommended that:

- **the federal government delay decision on the question of soliciting until on-going studies on prostitution, including that by the CACSW, have been released and distributed, and time allowed for study and response by women's groups;**
- **more research on the overall phenomenon of prostitution be undertaken by governmental agencies and that funding bodies be encouraged to support additional research;**
- **in the event that Parliament proceeds with legislation at this time, any legal reform apply equally to the buyer and seller of sexual services both in the legislation and its enforcement.**

On June 23, 1983, the Justice Minister tabled in the House of Commons a proposal to amend the soliciting section by including "obtaining the services of a prostitute" under the definition of prostitution, and by defining a motor vehicle as a public place if it is parked in a public place. He also named a special committee to examine the problems of pornography and prostitution.

The CACSW believes that prostitution constitutes a serious social problem in Canada and deplores the extent of the phenomenon, particularly with respect to young people. It also speculates that a more egalitarian society would improve the situation and reduce the tendency to treat people — men, women and children — as sexual objects. Many of the attitudes related to pornography and prostitution can be attributed to this tendency.

By initiating this study on prostitution in Canada, the CACSW hopes to help in informing the Canadian population, and especially women's groups, of the nature of the problem, and to suggest strategies to dissociate human sexuality from commercialization, exploitation and degradation. The purpose of the study is to provide factual information (where available), to examine the existent controversy, and to provide some guidelines for future policy development.

The CACSW is pleased that more time has been allowed for the study of prostitution (and pornography), and like other women's groups will be monitoring the progress of the committee to ensure that each issue will be given due attention and equal time.

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See Also

Sexual Offences

Citizenship and Passports

Canadian citizens were in fact British subjects before 1947, and the Canadian Naturalization Act then in effect included highly discriminatory conditions for granting citizenship to women and to men. A man retained his citizenship throughout his life, but a woman changed hers automatically upon marriage. A woman who was not a British subject became a British subject when she married one. However, a woman who was a British subject lost this status if she married someone who was not.

This was no longer the case after 1947, but the new Canadian Citizenship Act still contained many discriminatory distinctions between the sexes. Women who had lost their citizenship by marriage prior to 1947 were not automatically reinstated, but had to apply to regain their Canadian citizenship. Children born outside the country to Canadian fathers were deemed to be natural-born Canadians regardless of the mother's citizenship. Those born outside the country to Canadian mothers and non-Canadian fathers were not natural-born Canadians unless the mothers were unmarried. Other conditions applying to children of naturalized Canadian citizens and to foreign-born children adopted by Canadian citizens also took only the father's citizenship into consideration. A non-Canadian wife of a Canadian citizen could be naturalized after one year's residence, compared to a five-year residency requirement for non-Canadian husbands of Canadian citizens.

- **From 1973 to 1975, the CACSW demanded immediate implementation of all recommendations of the Royal Commission on the Status of Women addressed to the situation described above, and recommended adoption of a new Citizenship Act containing a prohibition of discrimination on the basis of sex.**

A new Citizenship Act came into effect in 1977, and in 1979, the CACSW judged that all but one of the RCSW recommendations relative to citizenship had been wholly implemented. The missing factor is that women must notify the Minister of their wish to resume citizenship lost before 1947. Upon notification, citizenship is automatically restored. While not all women may wish to resume their citizenship, many may be unaware of this option. Either Canadian-born parent can now claim Canadian citizenship on behalf of a foreign-born child. All immigrants, whether or not they marry Canadians, must reside in Canada three years before being granted citizenship. However, the Act does not include the recommended prohibition of discrimination.

Although there has never been any law requiring a woman to adopt her husband's name on marriage, this custom was taken to be the law in many administrative practices, including the issuing of passports. A woman's passport used to be invalidated when she married. This was changed in 1972, following recommendations of the RCSW, and a married woman who wished to retain her maiden name, or to revert to it, was required to forward a letter to this effect to passport authorities, with a list of valid documents or a statutory declaration on the use of her maiden name.

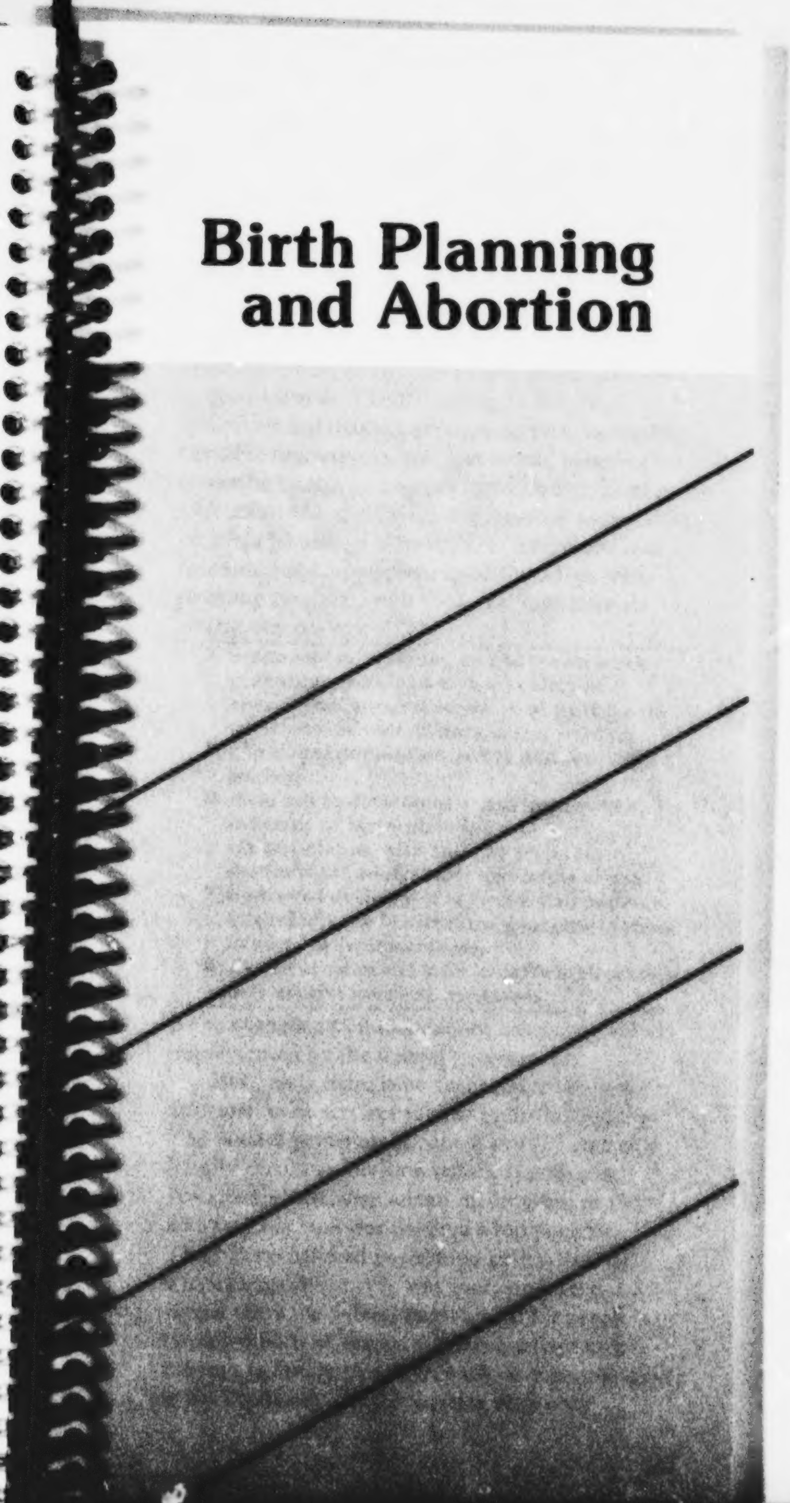
- **In 1975, the CACSW recommended that a married woman using her maiden name no longer be required to provide additional proof as to her use of that name; and that if marital status or proof of child custody is required, it be required of both men and women.**

It was not until 1981 that a married woman using her maiden name was required to provide the same documentation as anyone else. Either parent may now be required to provide documents relating to marital status or custody of children under certain conditions.

See Also

Immigrant Women

Birth Planning and Abortion



Birth Planning

The legal ban on the sale and advertisement of contraceptives in Canada was lifted in 1969, but to this day, although contraceptive products are available, there is no nationally-directed, co-ordinated effort to educate people about their use or their hazards. The RCSW in 1970 recommended that information on birth control be available to everyone, and that family planning clinics be established across the country. Between 1975 and 1980, the CACSW continued to pressure for birth planning information and services, and recommended a comprehensive Canadian birth planning program, with the following elements, among others:

- **a national advertising campaign on birth planning, combined with a variety of educational programs aimed at health care personnel as well as the general public;**
- **a national population policy and fertility survey;**
- **research to develop new and improved methods of birth planning and contraception, with specific focus on methods for adolescents and adult males;**
- **improved delivery of services, particularly to adolescents, low-income groups and those in rural or isolated areas;**
- **clarification of the laws under which minors may receive medical treatment.**

None of these recommendations has yet been fully implemented by the federal government.

In Canada there is no co-ordinated delivery of information or services related to birth planning. The federal government, which in 1972 created a Family Planning Division within Health and Welfare Canada, dismantled its program in 1978 and does not consider the area a top priority. There is no national population policy, and no national fertility survey was ever conducted. In recent years the federal government has severely curtailed both its research and consultant role in relation to family planning, while at the same time it has drastically cut the funding of private organizations providing these services. The Planned Parenthood Federation of Canada for example, had developed programs in counselling and public education, but has been forced by federal cutbacks to discontinue many of its activities.

Research on contraception is carried out primarily by the drug and pharmaceutical companies which manufacture and sell contraceptive drugs and devices. The vast bulk of research time and money is devoted to developing chemical means of contraception, many of which have been shown to have extremely serious "side effects" on the women who use them. The barrier methods of birth control, which are safer to use even though statistically less effective (e.g., diaphragm, condom, cervical cap), receive little research attention and have remained essentially unchanged for several decades. Furthermore, the only male contraceptive on the market is still the condom. Women thus bear the lion's share of responsibility for conception control, with all the risks to health and fertility associated with the imperfect means available. Federal agencies simply regulate products on the market.

Education and delivery of health care services are provincial responsibilities. Provinces show varying degrees of commitment to fulfilling these responsibilities as they relate to sex education or to the provision of birth planning information, facilities and services. In all provinces, however, the same three groups of women are hardest hit by the lack of information and services: adolescents, the poor, and those living in rural or isolated areas.

Approximately 50,000 teenage women become pregnant every year in Canada, with increasing numbers of pregnancies among those under 15. Yet physicians cannot legally provide contraceptive products or counselling to a minor without parental consent. The legal age of majority is 18 in most jurisdictions. Many sexually active young women are unwilling to have their privacy invaded in this way. Sex education programs in schools are few and far between. Many women with low incomes may be unable to afford the costs of contraceptive products, which are rarely covered under any health insurance scheme. In addition, the increases in physicians' extra-billing and provinces' imposition of user fees for hospital care limit poor women's access to *all* forms of health care. The dearth of health services outside urban centres places severe limitations on the availability of contraception and counselling in rural and isolated areas.

These serious gaps in birth planning services and information lead to many unwanted pregnancies, and it is these women who are least able to obtain abortions.

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See Also
Child Care

Abortion

Abortion is lawful in Canada only if performed by a qualified medical practitioner in an accredited or approved hospital, and if a therapeutic abortion committee of at least three doctors has decided that continuation of the pregnancy would be likely to endanger the woman's life or health. This has been the case since 1969, when the Criminal Code was amended. Before that time abortion was illegal even if a woman's life was endangered. Women resorted to the dangers of illegal abortions.

The RCSW, only a year after the new law came into effect, recommended that it be amended to permit abortion on the sole request of any woman less than 12 weeks pregnant, and after 12 weeks if a physician believes her physical or mental health is endangered by continuation of the pregnancy. The Badgley Committee on the Operation of the Abortion Law reported serious inequities in the application of the law across Canada to the federal government in 1977.

- **The CACSW has recommended since 1973 that abortion be removed from the Criminal Code.**

The federal government has taken no action whatsoever to remove abortion from the Code. The Badgley Committee's recommendations were ignored, and the inequities it identified still persist.

Hospitals are not required to form abortion committees, and in 1981 only 267 of approximately 900 hospitals had these committees. The numbers of hospitals performing abortions has actually decreased in recent years (there were 274 in 1975), partly as a result of pressure from anti-abortion groups. As a result, it is virtually impossible to obtain a legal abortion in many parts of the country. Hospitals that do have therapeutic abortion committees have widely varying practices: some approve all requests; some have quotas for abortions; some refuse most requests.

There may be lengthy delays between requesting an abortion and the actual procedure, increasing the risk of complications for the woman.

Over 65,000 abortions were performed in Canada in 1981, and thousands more Canadian women travelled to the United States for abortions they couldn't get at home. The present system has sharply discriminatory effects, since women who can afford to pay the extra fees levied by many doctors and/or to travel will succeed in obtaining an abortion while many poor women will not.

In the early 1970s, Dr. Henry Morgentaler was charged under the Criminal Code for performing abortions in his Montreal clinic. He was acquitted by two juries. The decision of a Court of Appeal, upheld by the Supreme Court of Canada in 1975, to reverse an acquittal by jury and send Morgentaler to jail was a legal precedent in Canada. Morgentaler was later released and has continued his work in Montreal. The government of Québec has chosen not to bring further charges against him for his activities. In the late 1970s, Québec established a network of clinics where abortions are performed — and which offer a wide range of family planning and counselling services as well. It is the only province to have done so.

Dr. Morgentaler's attempts, backed by local women's organizations, to establish similar clinics in Winnipeg and Toronto in 1983 were initially unsuccessful. Police raided both clinics, and Morgentaler was charged, along with other doctors, nurses and counsellors working at the clinics. Neither provincial government chose to approve the facilities and allow their continued operation.

As both levels of government avoid the issue, women's right to control of their bodies and their lives is before the courts. In 1981, the Supreme Court gave one anti-abortion activist permission to seek to establish that the Charter of Rights and Freedoms guarantees a fetus the right to life.

On the other hand, two women's groups supporting women's reproductive rights launched actions arguing that the abortion law violates the Charter because it denies women the right to life, liberty and security.

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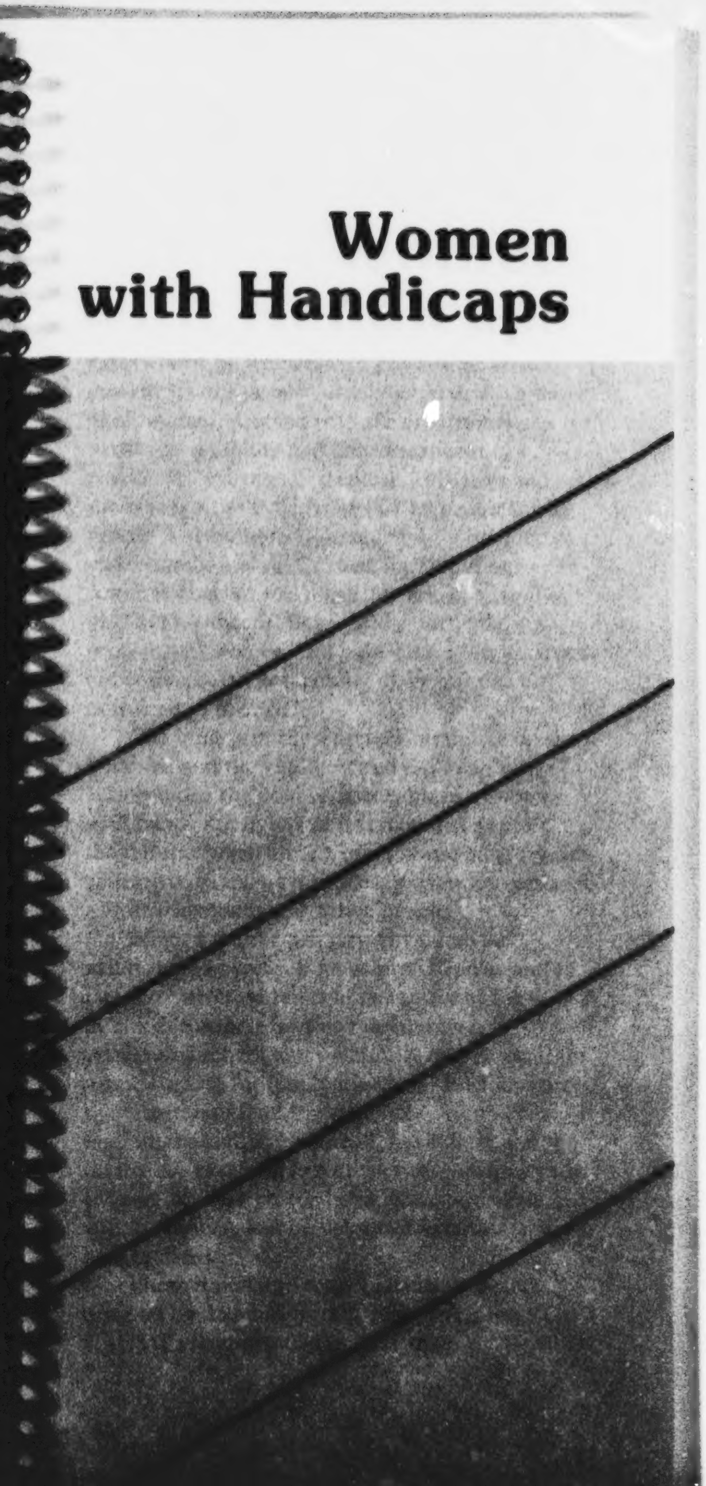

Women with Handicaps

In 1980, the CACSW presented its brief, *Women with Handicaps,* to the federal Special Committee on the Disabled and the Handicapped. The brief discussed the double disadvantage experienced by women with physical or mental disabilities: the economic and social disadvantages of all women, coupled with the constraints of a particular disability and the educational, residential, vocational, medical, legislative and social inequities experienced by all handicapped people. The authors also argued for a broader understanding of disabilities; for including considerations of social and economic, as well as physical handicaps. Some of the particular problems of women who have cancer, are retarded, or are diagnosed as mentally ill were thus examined in the brief.

The reports of the Special Committee on the Disabled and the Handicapped did not acknowledge the double disadvantage of women with handicaps in any of its recommendations, though it covered among other issues employment, education, changing attitudes, prevention, research and development, and native people.

Women are the primary caregivers for handicapped people, both as professionals and as mothers, wives, sisters and daughters of the disabled. Support for this role however, is extremely limited, and practically non-existent for women caring for family members. Furthermore, the increasing trend towards "de-institutionalization" of the ill, the elderly and the disabled is resulting in a greater responsibility for the care of these people being placed on women within families, and on volunteer agencies (see next section).

There is no large-scale Canadian research done on the handicapped or their caregivers. The CACSW recommended in 1981 that:

- **Statistics Canada conduct a survey to collect information on the education, employment, health, financial status, sex and marital status of the handicapped and of those who take care of them.**

In June 1982, tabling the federal government's response to the reports of the Special Committee, the Secretary of State announced that a national data base would be developed to analyse characteristics of the disabled population. Statistics Canada is scheduled to begin releasing the information in 1984-85, with more detailed surveys to be conducted after the 1986 census if funds are allocated for this purpose. No mention was made of collecting data on caregivers.

In-depth research on the lives of women with disabilities or caring for the handicapped remains to be done; until it is, these women are likely to remain "invisible" and to bear their burdens in isolation.

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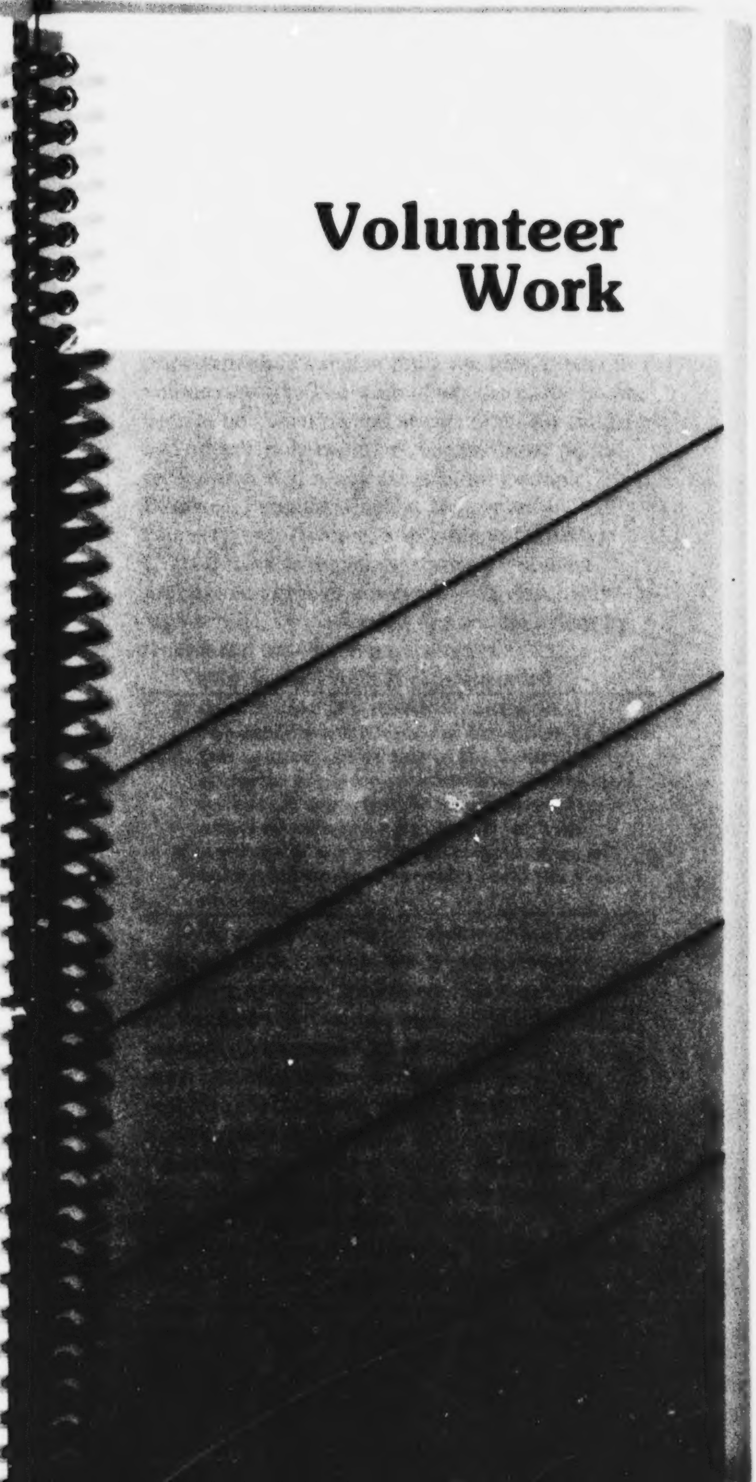
See Also

Constitution
Public Service



Volunteer Work

Many women's groups in Canada, sensitized to the amount of unpaid work that women do in their homes and communities, have been actively working to promote recognition of the extent, importance and value of domestic labour and of volunteer work. The work of women in the home, both as homemakers and as caregivers for children and other family members, receives little public recognition or recompense (see, for example, Pensions, Parental Benefits, Matrimonial Property, and Divorce, Support and Custody). Unpaid work as organized through volunteer groups and agencies however, has a reasonably high profile, and is funded to a certain extent by federal and provincial governments.

In 1975, the CACSW recommended

- **the creation of a resource centre on volunteer work within the Secretary of State Department, available to the voluntary sector to promote co-operative efforts, and to federal departments to provide a better understanding of volunteer work; and**
- **a survey of the work and contribution of volunteer workers to society and the economy.**

No resource centre on volunteer work has been established within the Department of Secretary of State. A National Advisory Council on Voluntary Action had been created in 1974, primarily concerned with relations between governments and the voluntary sector. Their report to the Secretary of State in 1977, *People in Action,* made little specific reference to women as volunteer workers, or as clients of services such as rape crisis counselling or transition housing. The CACSW supported most of its general recommendations however, and in its *Response to "People in Action"* detailed further actions to be undertaken with respect to women's voluntary activities. The National Advisory Council on Voluntary Action was disbanded after submission of its report.

Statistics Canada did publish a national survey of volunteer work in 1981, with information on the amount of volunteer work done in Canada, characteristics of volunteer workers, and broadly-defined types of volunteer organizations and services. The survey revealed that 15.2% of the working-age population had done some unpaid volunteer work in the reference year (1979-1980), and that during that year 374 million hours of work were done by volunteers. This was equivalent in terms of paid employment to 212,000 people working 40-hour weeks over an entire year. Men were found to be twice as likely to participate as volunteers in leisure activity organizations, while significantly higher percentages of women worked in organizations oriented towards health, education and social welfare. Overall, 14.2% of men and 16.2% of women had worked as volunteers.

The work of volunteers is an enormously valuable contribution to social well-being, particularly when public social services are being cut back. Governments are increasingly emphasizing the private sector and private donations as sources of support for voluntary organizations. Women's essential services struggle for survival, with little support or interest from the private sector. Rape crisis centres or transition houses cannot turn to their clientele for financial support, since they provide services primarily to poor women. There is therefore a serious danger that these facilities will fall between the cracks in public responsibility.

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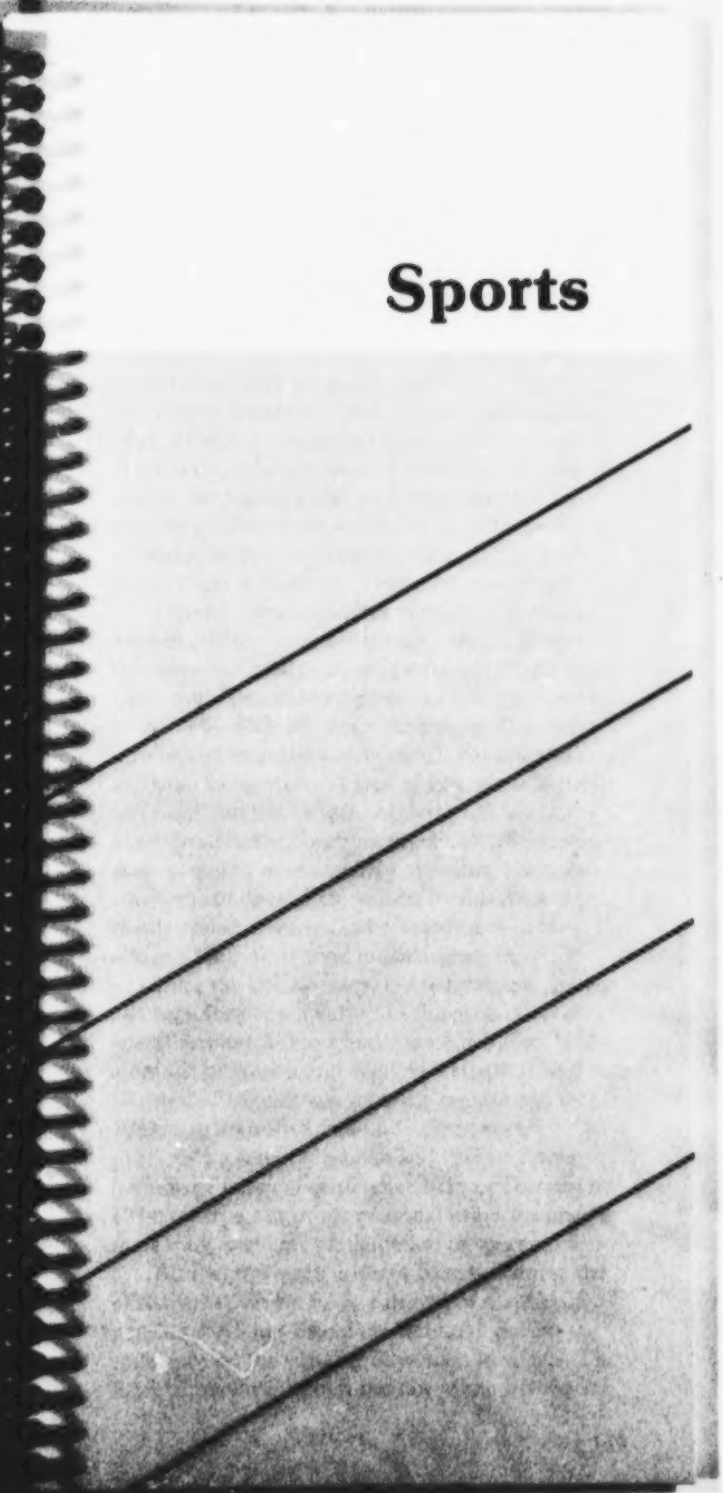
See Also

Sexual Offences
Battered Women
Women with Handicaps
Contraception
Immigrant Women



Sports

Today, although equal numbers of women and men participate in fitness activities, the gap between the sexes in organized and competitive sports persists. Women continue to be underrepresented in sports leadership positions. Fewer women than ever act as coaches and administrators, or as physical education specialists, teachers and instructors. The media still devote much more attention to male athletes and sporting events. Both public and post-secondary school systems allocate more resources to male sports activities; within universities, for example, male competitors outnumber females by two to one.

Despite these and other barriers, Canadian women athletes have consistently won a greater proportion of medals at international competitions than would be expected given the greater numbers of males who are allowed to compete. The differences in men's and women's participation do not stem from women's lack of interest or ability, but from cultural factors. Athletic activity has until very recently been totally male-defined and male-centered in our society. Also, the greater constraints imposed on women by marriage, family responsibilities and employment have allowed them little time to participate in sports.

Over the last 20 years, the federal government has been formally involved in the promotion of sports through Fitness and Amateur Sport (FAS), a branch of Health and Welfare Canada. The FAS Women's Program was formally established in 1980, although FAS had undertaken some previous projects on women and sports. These included a national conference held in Toronto in 1974, and a series of promotional projects aimed at increasing women's participation in sports.

Although women athletes have welcomed the initiatives taken by FAS, a degree of scepticism persists. FAS has issued no definitive policy statement on the equality of women in sports. The FAS Women's Program has not in the past been formally linked with other federal offices concerned with the status of women, which may have had the effect of limiting the scope and effectiveness of its activities.

Fair Ball, by Ann Hall and Dorothy Richardson, was published by the CACSW in 1982 and examined many aspects of sex discrimination in sports. Based on the findings of this study, the CACSW made five closely related recommendations in March 1983. It recommended that:

- **the Canadian Human Rights Commission have the question of jurisdiction over National Sports Governing Bodies determined.**

Jurisdiction over the National Sports Governing Bodies (NSGB) is currently unregulated. The various sports federations claim to be private organizations, and are therefore not subject to human rights legislation designed to prohibit discrimination in public services or facilities. Most provincial human rights commissions go along with this. However, the Canadian Human Rights Commission in 1983 upheld a complaint against the Canadian Soccer Association for having prevented a Danish girl from participating in an international soccer tournament in 1981. An independent human rights tribunal, with authority to end the general ban on mixed soccer teams in competitions, has been appointed to consider the matter.

- **The Canadian Radio-Television and Telecommunications Commission (CRTC) develop guidelines to ensure non-sexist programming and greater representation of women in sports events.**

The CRTC has as yet released no guidelines on non-sexist programming. Nor does the CRTC consider itself empowered to determine the content of programming as regards the equal representation of women, since programming is the responsibility of the broadcaster. The Canadian Human Rights Commission has also taken the position that it has no jurisdiction over broadcasting.

- **all lottery agencies make public the criteria for the distribution of funds related to sports and the percentage of money allocated annually by activity and by sex.**

Lotteries are provincially-run, although the federal government receives a portion of the revenues. Many sports and recreational activities are funded through lotteries, but no information on the sex of recipients of funding is available.

- **all sports organizations benefitting from public funds and/or using public facilities ensure an equitable representation of women in leadership positions.**

Although public funding and facilities must be available for use by either sex, the FAS does not require the NSGB to ensure equal representation of women at any level of the organization as a condition of funding its operations.

- **the Women's Program of FAS be made a permanent program area within FAS; that this program have the responsibility for recommending policies, and establishing and enforcing regulations related to affirmative action programs for women in sport; and that it receive the budget and staff necessary to carry out these responsibilities.**

In 1982, the FAS Women's Program published the results of its survey of women in sport leadership, documenting the under-representation of women in this area. The priorities of the Program for 1983 are the development of policies and planning materials. In its efforts to establish itself as the focal point for women and physical activity within the federal government, the Program is establishing liaison with other federal women's programs, including the CACSW. In addition, a review of all national sports organizations is underway, aimed at identifying instances of sexual discrimination as a basis for future policy recommendations. The Program sponsors several activities related to affirmative action; one such plan encourages the promotion of women to the management level in national sports associations. Since 1981, the Women's Program has been incorporated into the budgeting for the Fitness and Amateur Sport branch of the Department of Health and Welfare.

A great deal remains to be done to ensure equal opportunity for women in sports. One important recent development was the establishment of the Canadian Association for the Advancement of Women and Sport in 1981. This is an organization of women involved in sports and recreation, whose principal activities are research, communications, advocacy and leadership development for women in sports.

Further Reading

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- Hall, M. Ann and Dorothy A. Richardson. *Fair Ball: Towards Sex Equality in Canadian Sport.* Ottawa: CACSW, 1982.
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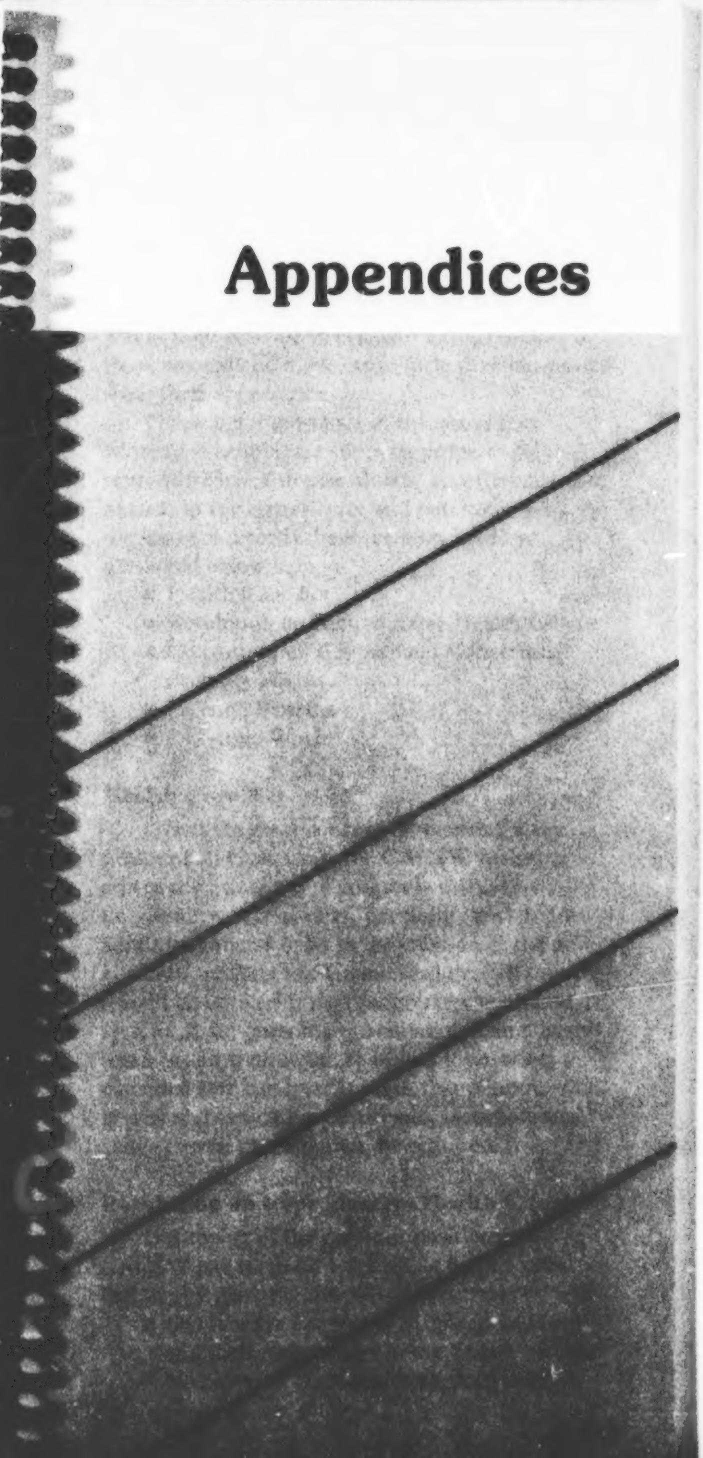
See Also

Volunteer Work



Appendices

Appendix 1

CACSW Recommendations of September 1983

Because the preparation of this report took several months, it was not possible to include a discussion of the recommendations made by the CACSW at its September 28, 1983 meeting. Nor would it be possible to evaluate actions related to these recommendations, as so little time has passed since their appearance.

Given the importance of the issues they address — health care support, property rights, reproductive health care clinics, benefits related to parents in the labour force and part-time work — the Council records these recommendations presented below.

- Health Care Act
- Resolution on Reproductive Health Clinics
- Constitutional Amendment Concerning Property Rights
- Parental Benefits
- Part-time Work

Health Care Act

Given the great concern of women for the health of all Canadians, the CACSW wishes to affirm the principles of comprehensiveness, universality, accessibility, portability and public administration as basic in the creation of the new Health Care Act. The Council believes all funding should be derived from a progressive tax-based system. It supports the provision of mental health services and traditional, as well as innovative, extended care services. It urges that periodic review and evaluation of services, incorporating active citizen participation, be required.

Resolution on Reproductive Health Clinics

In support of the previous positions the CACSW has taken on responsible birth control and family planning, the CACSW further states:

- that it urges Provincial Ministers of Health and their counterpart in the Yukon and the Northwest Territories to approve publicly-funded free-standing reproductive health clinics for purposes of section 251 of the Criminal Code of Canada.

- that it finds unacceptable the criminal prosecution of individual staff members of reproductive health clinics in Winnipeg and Toronto.

The CACSW continues to urge governments to establish and provide sufficient operating funds for family planning clinics in rural as well as urban areas.

Constitutional Amendment Concerning Property Rights

Whereas on March 29, 1983 an amendment to article 7 of the Canadian Charter of Rights and Freedoms, concerning property rights, was introduced in the House of Commons and was defeated;

whereas a second similar amendment may be introduced;

whereas the aim of the amendment of March 29, 1983 was to protect property rights in the traditional sense of the word, meaning primarily real property;

whereas Canadian women in general, are not owners of real property and, furthermore, own relatively little property of any kind;

whereas the probable consequences of such an amendment have not been sufficiently studied and discussed;

whereas such an amendment could have grave consequences on the rights which women have already obtained, such as the right to division of the matrimonial home;

whereas any increased protection of property in the Canadian Constitution must also protect new types of property, which are often social rights and benefits such as rent control, pensions and labour standards;

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the CACSW recommends to the federal government that no new amendment be introduced in the House of Commons before an in-depth study can be made to establish the consequences of such a measure on the lives of Canadian women. We also ask that any such measure be submitted to the general public so that Canadian women be given the chance to voice their opinion of the matter.

Parental Benefits

Childbearing and child rearing are concerns of all of society. Therefore when women in the labour force become pregnant, bear and rear children, they should not be subject to penalties and discrimination for these reasons.

Part-Time Work

No action should be taken by the federal government to expand part-time work, either within the federal Public Service or in the labour force in general, until legislation ensures the equal treatment of part-time with full-time workers;

part-time jobs should not be created at the expense of full-time work, particularly in the current climate of economic recession and high unemployment;

the Unemployment Insurance Act should be amended to ensure that a much higher proportion of part-time workers receive this protection in periods of unemployment. At the present time, only 60% of part-time workers receive this protection;

the Canada Labour Code should be amended to ensure that part-time workers are covered by the employment standards provisions, and to require that employers include part-time workers on a prorated basis in all fringe benefits and pension plans that are available to full-time workers doing similar work.

Appendix 2

A List of Available CEIC Programs and their Acronyms.

To improve skills:

CMITP	(Canada Manpower Industrial Training Program)
CMTP	(Canada Manpower Training Program)
CTST	(Critical Trade Skills Training)
JRT	(Job Readiness Training/ Creative Job Search Techniques)
LEAP projects	(Local Employment Assistance Programs)
WINTO	(Women in Non-Traditional Occupations)

To gain experience:

CAP	(Career Assignment Program)
CCDP	(Canada Community Development Project)
CCSP	(Canada Community Services Project)
LEAP	(Local Employment Assistance Program)
LEDA	(Local Economic Development Assistance Program)
NTEP	(New Technology Employment Program)
PED	(Program for the Employment Disadvantaged)
SUMMER CANADA Programs	

Labour Canada's Women's Bureau has also produced a brochure entitled *Canadian Women and Job Related Laws 1981*. It is useful as a pathfinder for untangling job-related legislation since it provides the titles of federal and provincial laws, indicates how they might apply and briefly outlines pertinent sections. The names of government departments responsible for administering such legislation are also listed by province.

Appendix 3

Abbreviations Used

CACSW	Canadian Advisory Council on the Status of Women
CCOHS	Canadian Centre for Occupational Health and Safety
CEC	Canada Employment Centres
CEIC	Canada Employment and Immigration Commission
CLRB	Canada Labour Relations Board
CRTC	Canadian Radio-Television and Telecommunications Commission
C/QPP	Canada and Quebec Pension Plans
FAS	Fitness and Amateur Sport, Health and Welfare Canada
NSGB	National Sports Governing Bodies
OAS/GIS	Old Age Security/Guaranteed Income Supplement
OHSB	Occupational Health and Safety Branch, Labour Canada
RCSW	Royal Commission on the Status of Women in Canada
RCTC	Refundable Child Tax Credit
UI	Unemployment Insurance
UIC	Unemployment Insurance Commission
VDT	video display terminal
WINTO	Women in Non-Traditional Occupations

Appendix 4

Index to Topics Not Appearing in the Table of Contents

ADOPTION — see Parental Benefits; Public Service
ALIMONY — see Divorce, Support and Custody
AFFIRMATIVE ACTION — see Public Service
BANKING — see Unions
CHILD ABDUCTION — see Sexual Offences; Divorce, Support and Custody
CLOTHING INDUSTRY — see Employment and Training Policies; Immigrant Women
CONTRACEPTION — see Birth Planning
DOMESTIC WORKERS — see Immigrant Women
EQUAL PAY FOR WORK OF EQUAL VALUE — see Public Service
HOMEMAKERS — see Volunteer Work; Part-time Work; Parental Benefits; Pensions
MATERNITY LEAVE AND BENEFITS — see Parental Benefits
MICROTECHNOLOGY (VDTs) — see Occupational Health and Safety; Public Service
ONE PARENT FAMILIES — see Part-time Work; Divorce, Support and Custody; Battered Women; Taxation
PORNOGRAPHY — see Prostitution
RE-ENTRY WOMEN — see Employment and Training Policies; Unemployment Insurance
REPRODUCTIVE HEALTH — see Occupational Health and Safety
SEXUAL HARASSMENT — see Public Service
TECHNOLOGICAL CHANGE — see Employment and Training Policies; Occupational Health and Safety

Appendix 5

Further Reading: General

- Backhouse, Constance and Leah Cohen. *The Secret Oppression: Sexual Harassment of Working Women.* Toronto: MacMillan of Canada, 1978.
- CACSW. *Equality and Equalization.* Brief to the Parliamentary Task Force on Federal-Provincial Fiscal Arrangements. Ottawa: CACSW, 1981.
- CACSW. *Ten Years Later: An Assessment of the Federal Government's Implementation of the Recommendations of the Royal Commission on the Status of Women.* Ottawa: CACSW, 1979.
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- "Statement by the National Action Committee on the Status of Women." In *Women and the Constitution in Canada,* Audrey Doerr and Micheline Carrier (eds.). Ottawa: CACSW, 1981.

Appendix 6

CACSW Publications List

- *International Decade for Women: 1976-1985: What it Means to Canadian Women,* by Mary Pearson, November 1977, 40 p.
- *Indian Women and the Law in Canada: Citizen Minus,* by Kathleen Jamieson, April 1978, 108 p.
- *Women and Aging: A Report on the Rest of our Lives,* by Louise Dulude, April 1978, 123 p.
- *Five Million Women: A Study of the Canadian Housewife,* by Monique Proulx, June 1978, 92 p.
- *Canadian Perspectives on Sex Stereotyping in Advertising,* by Alice E. Courtney & Thomas W. Whipple, June 1978, 117 p.
- *Problems of Immigrant Women in the Canadian Labour Force,* by Sheila McLeod Arnopoulos, January 1979, 79 p.
- *The Second Time Around: A Study of Women Returning to the Work Force,* by Mary Pearson, April 1979, 69 p.
- *Background Notes on Birth Planning and Conception Control,* by Mary Pearson, June 1979, 44 p.
- *10 Years Later:* An assessment of the Federal Government's implementation of the recommendations made by the Royal Commission on the Status of Women, October 1979, 72 p.
- *Wife Battering in Canada: the Vicious Circle,* by Linda MacLeod, January 1980, 72 p.
- *Women and Unions,* by Julie White, April 1980, 131 p.
- *Women and Jobs: The Impact of Federal Government Employment Strategies on Women,* by Patricia Dale, June 1980, 162 p.
- *Women Caring and Curing* — Submission to the Health Services Review '79, June 1980, 48 p.
- *Women with Handicaps:* A Brief to the Special Committee on the Disabled and the Handicapped, August 1980, 52 p.

- *Women in Prison: Expanding Their Options* — A Brief presented to the Strategic Planning Committee on the Future of the Correctional Service of Canada, September 1980, 20 p.
- *Not How Many But How Few:* Women appointed to boards, commissions, councils, committees and crown corporations within the power of the federal government, by Lyse Champagne, October 1980, 27 p.
- *Critical Skill Shortages: New Opportunities for Women* — A Brief to the Parliamentary Task Force on Employment Opportunities for the 80's, January 1981, 29 p.
- *Women and the Constitution,* eds. Audrey Doerr & Micheline Carrier, February 1981, 223 p.
- *Pension Reform with Women in Mind,* by Louise Dulude, March 1981, 121 p.
- *Equality and Equalization* — A Brief to the Parliamentary Task Force on Federal Provincial Fiscal Arrangements, June 1981, 27 p.
- *Report on Sexual Assault in Canada,* by Dianne Kinnon, December 1981, 91 p.
- *Pension Reform for Women,* a Discussion Paper, December 1981, 19 p.
- *A Brief on Wife Battering with Proposals for Federal Action,* by Debra J. Lewis, January 1982, 24 p.
- *Summary of Recommendations of the CACSW,* March 1982, 32 p.
- *Microtechnology and Employment: Issues of Concern to Women* — A Brief to the Task Force on Micro-Electronics and Employment, July 1982, 25 p.
- *Better Day Care for Canadians: Options for Parents and Children,* August 1982, 43 p.
- *Outline of Matrimonial Property Laws in Canada,* by Louise Dulude, August 1982, 24 p.
- *Fair Ball: Towards Sex Equality in Canadian Sport,* by M. Ann Hall & Dorothy A. Richardson, September 1982, 124 p.

- *Reproductive Hazards at Work: Men, Women and the Fertility Gamble,* by Nancy Miller Chenier, December 1982, 105 p.
- *A Working Majority: What Women Must Do For Pay,* by Pat & Hugh Armstrong, February 1983, 280 p.
- *Play from Strength: A Canadian Woman's Guide to Initiating Political Action,* by Penney Kome, March 1983, 48 p.
- *Women and Part-Time Work,* by Julie White, March 1983, 159 p.
- *Current Issues for Women in the Federal Public Service,* by Julie White, June 1983, 24 p.

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PRINTED IN CANADA